

STAFFORD COUNTY PLANNING COMMISSION MINUTES

May 4, 2011

The meeting of the Stafford County Planning Commission of Wednesday, May 4, 2011, was called to order at 6:33 p.m. by Chairman Gordon Howard in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Howard, Rhodes, Fields, Hazard, Kirkman and Hiron

MEMBERS ABSENT: Mitchell

STAFF PRESENT: Harvey, Smith, Stinnette, Zuraf, Bullington, Hudson, Lott and Hornung

DECLARATIONS OF DISQUALIFICATION

Mr. Howard: Are there any declarations of disqualification for this evening? Hearing none, I'll ask if there's a motion to adopt the agenda as written.

Mr. Rhodes: So moved.

Mr. Howard: Is there a second?

Mrs. Hazard: Second.

Mr. Howard: Is there any discussion on this evening's agenda? Hearing none, I'll call for the vote. All those in favor of the agenda please signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Hiron: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 6-0. That moves us into Unfinished Business which is item number 1 on the agenda this evening, which is the Floor Area Ratio in the Commercial and Industrial Zoning Districts. Mrs. Hornung?

UNFINISHED BUSINESS

1. Floor Area Ratios (FAR) in the Commercial and Industrial Zoning Districts (**Time Limit: June 1, 2011**) (**Deferred at April 6, 2011 Meeting to April 20, 2011 Meeting**) (**Deferred at April 20, 2011 Meeting to May 4, 2011 Meeting**)
(*Authorize for Public Hearing by: May 4, 2011*)
(*Potential Public Hearing Date: June 1, 2011*)

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Mrs. Hornung: Good evening. Thank you Mr. Chairman, members of the Commission. At your last meeting, you had requested that a document that came from Arlington County be provided to you which was in your packet that had information related to green building density incentive policy for site plan projects. Also, it was asked of staff to provide you additional information which you will find at your seats this evening. There are two charts, one which was provided to you in the beginning when we first started looking at existing FARs with Stafford, Prince William and Spotsylvania. Then the chart with color puts it in a different format and shows you what the Stafford County zoning districts are and existing FAR. And then there... that's in the first two columns; in the middle will be comparable zoning which those two columns are the name of the zoning district for that locality that has the highest FAR in comparison with Stafford and Prince William and Spotsylvania. And in the... for most of them, you have about five districts that Spotsylvania has the highest FAR ratio and then you have three of them that are Prince William. Then in the green column, that will show the mid-point which that was the mid-point showing from the Stafford County's FAR to the highest FAR with the localities. And then in the orange and italics, that is the numbers that are in the proposed ordinance. And this evening you would need to... the Planning Commission should authorize a public hearing to meet the June 1 deadline for the Board. And I'll be glad to explain the chart further or have any... answer any other questions you might have.

Mr. Howard: Thank you. Did you have a chance to go through the Arlington County green building density incentive policy? The reason I'm asking, I was wondering if you could give us a high level kind of overview of that, and what, if anything in your mind as a planner, is applicable to the ordinance that we're working on here in Stafford.

Mrs. Hornung: Well, when you look at this document, this was on their Board agenda in February 2009 and this will... this document was recommending bonus density incentives for projects that might exceed, or if they utilized lead certification and lead practices, they could get a density bonus. So, for example, a green building density bonus incentive would be projects that may receive up to a .05 FAR bonus if... for the baseline lead certification. And they have listed... you have a lead silver certification, a gold and a platinum certification. The developers would post a bond or letter of credit for compliance.

Mr. Howard: Did you see anything that might be applicable to what Stafford's trying to accomplish?

Mrs. Hornung: I did look at this and I read this, but this evening I didn't go through and analyze that specifically for this evening's discussion. I was actually focusing on the chart.

Mr. Howard: Okay. And then...

Mr. Harvey: Mr. Chairman, I would note that one difference between this process that Arlington County has outlined and what has been discussed so far with the Commission is that their process, in order to increase the FAR through green building practices, is they have to go through a special exception process with their site plan. And that involves public hearings; I believe it's similar to our conditional use permit process which, to date, the Commission and Board have been considering by-right changes to the FAR. So that would be one significant difference between what Arlington does and what has been discussed so far.

Mr. Howard: And that gives the County I guess another chance at perhaps imposing other... or I shouldn't say imposing... perhaps getting the developer and/or landowner to participate in some of the

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other issues that the County might need some help with. Is that what happens during their special use...?

Mr. Harvey: Yes, it's my understanding their process typically takes about a year to go through all the meetings with the Commission and Board and negotiate conditions of the permit for approval of the plan. It's also my understanding from what I recall from a seminar a few years ago that Arlington County, in general, has certain base zoning that's fairly old. But in order for you to build up something more than what zoning allows, you can go through the special exception process. So, in essence, through the special exception you partly create some of your own zoning through a negotiated process.

Ms. Kirkman: Mr. Chair?

Mr. Howard: Ms. Kirkman.

Ms. Kirkman: I have a question for staff but also a request for clarification from the attorney because my understanding is that the special exception process actually goes through the Board of Zoning Appeals and not through the Commission.

Mr. Howard: Here in Stafford?

Ms. Kirkman: Well, certainly here in Stafford but I (inaudible).

Mr. Howard: In Arlington? Mr. Smith, do you know the answer to that?

Mr. Smith: Yes Ms. Kirkman, Mr. Chairman. Different localities can call them different things. They can be known as conditional use permits, special use permits or special exceptions, depending on the locality. But, Ms. Kirkman, you are correct that in the State Code it refers to the BZA granted legislative decision as a special exception; although some other localities I believe do call it, even if it is a Board of Supervisors' issued legislative decision, they still call it a special exception. I don't know in Arlington County what their terminology is and whether it depends on whether it's Board issued or Board of Zoning Appeals issued.

Ms. Kirkman: Thank you. And then for staff, Mrs. Hornung...

Mrs. Hornung: Yes ma'am.

Ms. Kirkman: Do any of our "sister" localities have this type of increased density for lead certification?

Mrs. Hornung: Not our adjacent localities; not that I know of.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Okay. Are there any questions from any Commissioners on the chart that Mrs. Hornung was referring to? Those two different charts? So, the second chart that we have this evening which is the chart that you referred to as the one that has color on it, the mid-point, Stafford versus the highest FAR, that is within our existing Stafford County zoning districts or is that comparing the proposed ordinance?

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Mrs. Hornung: No, that's comparing the existing FAR for Stafford and the highest FAR, which in... for B-1 and B-2 in this case would be Spotsylvania. Well, Spotsylvania and Stafford are the same for B-1, but in the Urban Commercial in the B-2, Stafford is .4, Spotsylvania is .7. So looking about the mid-point between those two would be about .55.

Mr. Howard: Right. So, stay on B-1 convenience for a moment. So if you carried across, Stafford County zoning district currently is a .5, Spotsylvania is currently a .5... is that right?

Mrs. Hornung: That is correct.

Mr. Howard: And then there's really no mid-point because we're both the same number, we're proposing a .6.

Mrs. Hornung: Yes sir, that's correct.

Mr. Howard: Okay. So, if this were to be adopted, the .6 would then be the highest mid-point; is that correct?

Mrs. Hornung: That is correct.

Mr. Howard: Okay. So, what is the thought process on the .6 because I know there's been discussion by several Commissioners over the last few meetings on the methodology on that.

Mrs. Hornung: Right. When staff was looking at the other chart that you have, looking at the existing zoning for... I'm sorry, excuse me... the existing FAR for the three localities, the staff was looking at all commercial zoning. So, if you're looking at let's say for example Spotsylvania, in their three different zoning categories... excuse me, FAR categories, they range from .5 to 1.0 and Stafford ranges from .35 to 5. And by looking at those numbers and then the FAR straight across and the guidance from the Board to increase the number but making the FAR less restrictive, that's where the numbers came... were decided upon to go higher... excuse me, not a higher FAR but a less restrictive FAR between the localities so that there would be less restriction in what the Board had, from what I understand, they wanted the FARs to change so that it would be more competitive and to bring the businesses into the County. So by looking at the existing FARs for the other localities, if Stafford's FAR was less restrictive then the County would be more competitive with the neighboring localities.

Mr. Howard: So, is it fair to say that the proposed ordinance, those FAR numbers, are somewhere in between what Spotsylvania would have and then where Prince William is also? So, it's more somewhere... the thought process is somewhere in the middle of both of those?

Mrs. Hornung: They would be closer, yes, and be a little less restrictive than what Stafford has now since you see some of them are even as low as .3 and .35, but when you look at Spotsylvania and different districts, for industrial Stafford has .35 but Spotsylvania has 1.0 or 1.5.

Mr. Howard: Right.

Mrs. Hornung: So, not taking the actual highest number of all three localities but coming somewhere in between and being close to the numbers so that it wasn't a number that was far off from the rest of them so it wouldn't be too far out of the woods so to speak from the others in comparison.

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Mr. Howard: Right, okay.

Ms. Kirkman: Mr. Chair?

Mr. Howard: Yes Ms. Kirkman?

Ms. Kirkman: Did you do any comparison with the lowest numbers for the comparable localities?

Mrs. Hornung: No. That wasn't... the request was for the highest, looking at the highest.

Ms. Kirkman: So the only assertion you can make is that this is somewhere in between Stafford and the very highest possible, not in regards to all the localities?

Mrs. Hornung: No. What... if we're talking about this chart for this evening that the comparison was with the highest FAR with Prince William and Spotsylvania, but the initial comparison to decide or to come up with numbers in the ordinance for the Planning Commission to take a look at and decide what they want, what you want for the County as a whole, the numbers of only Spotsylvania and Prince William were taken because that was the request; to just look at the neighboring localities. There was no comparison with the other localities that Stafford is usually compared with. There's a number of six... there's about six localities that Stafford County is usually compared with in other aspects.

Ms. Kirkman: And you stated that this was to make Stafford more competitive. Again, I want to return to the presentations we had from Economic Development. Is there any instance that we know of in which Stafford County lost a potential project because of the FAR?

Mrs. Hornung: I'm not aware of any and I know we had presentations and there wasn't anything specific that was notified or detailed that Stafford would have lost. But, you know, sometimes that is not necessarily tracked if somebody says, well I'm not coming to Stafford because of this particular instance. We have heard from different developers that I need so many acres to build at this FAR, but if I want to build the same thing in another locality I need less acreage.

Ms. Kirkman: Thank you.

Mr. Howard: Any other questions of staff? Okay, hearing none... thank you Mrs. Hornung.

Mrs. Hornung: Thank you.

Mr. Howard: I'll bring it back to the Commission for discussion and some sort of action. We have a deadline of really today to...

Mr. Rhodes: Vote for public hearing.

Mr. Howard: ... send this to public hearing.

Mr. Harvey: Mr. Chairman, we did search the Arlington County Code and found in their site plan review process that the exception process gives flexibility for the developer and it goes to the Planning Commission and the County Board.

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Mr. Howard: Thank you.

Mr. Rhodes: And the version... what is it... referred Resolution R11-54. So what was the proposed ordinance?

Mr. Howard: What's the official Resolution number? We don't have it in the hand-out that we have that we were sent home because the original is not in there.

Mr. Rhodes: But the change would be O11-10, correct? Is that what we're proposing for... yeah, there it is, O11-10. It's in the February 16th package.

Mr. Howard: Right.

Mr. Rhodes: Mr. Chairman, I make a motion to send proposed Ordinance O11-10 forward for a public hearing consistent with the request of the Board of Supervisors' Resolution R-11-54.

Mr. Howard: Is there a second?

Mr. Hirons: Second.

Mr. Howard: Discussion?

Ms. Kirkman: Mr. Chair, I'm going to make a substitute motion.

Mr. Howard: Okay.

Ms. Kirkman: Mr. Chair, my substitute motion... we were given the authority to change what was sent to us by the Board of Supervisors and my substitute motion is to move this forward to public hearing with all of the floor area ratios as they currently exist in the code.

Mr. Fields: Second.

Mr. Howard: Okay, discussion?

Ms. Kirkman: Mr. Chair, I made that motion because, as we have discussed before is unfortunately if the Board... if the Planning Commission does not act on what the Board has sent to us then it's deemed that the Planning Commission approves what has been sent to us. So, therefore, the only way we can act on this is to change it. And we have not yet heard any compelling evidence that this is needed. We have not heard of any lost projects. In fact, what we found when we looked into this matter is that our sister county in Spotsylvania and Prince William, what we found is that there's a difference and that Spotsylvania has higher ratios because they have chosen to concentrate their commercial development in smaller proportions of their county relative to Stafford County; unlike Prince William County which has similar FARs to Stafford County and has chosen to spread it out and has a larger proportion of their county in commercial zoning and land use. So, the only way we can really convey that we need to leave things as they are is to move forward an ordinance that keeps things as they are. And that's important for a couple of reasons, the most important of which is right now if the floor area ratios are changed and made by a by-right are increased density, then that is essentially a give-away to developers and land speculators because they will be able to develop at a

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greater density without having to go through a rezoning process which means they will... the County will be unable to collect for the impact of increased traffic and other infrastructure demands that come about as a result of that increased density.

Mr. Howard: Mr. Fields?

Mr. Fields: Not much to add to that other than that it became clear through this discussion that while there may be an argument that different ways of looking at commercial density need to exist in Stafford, at least it became clear in my mind that exploring the future implementation of and modification of the existing TND Ordinances and ordinances that are going to flow from the UDAs is probably the more appropriate place to discuss if we need to think about more dense commercial development... that those would be the areas in which it would need to occur, not across the board in the existing style of development.

Mr. Howard: Any other comments? Mrs. Hazard?

Mrs. Hazard: Yes. I've thought about this as well because it does seem like we certainly have identified a lot of issues with regard to this. At this point, I'm not sure I feel... I would really like to hear from the public on this matter and my concern about advertising the current without showing that there could be a change is we may not get the public input that we are looking for. It appears that we all seem to have some questions. If it is that urgent then we may have people here for a public hearing. But if we advertise our current standards, I'm not sure we will get anybody... get as many people to come. And I don't believe that us voting to take this to public hearing shows our final say on the matter.

Mr. Howard: Thank you. Any other...?

Mr. Rhodes: Yes, Mr. Chairman.

Mr. Howard: Mr. Rhodes?

Mr. Rhodes: While the carefully worded question to the Economic Development staff has been do we know specifically that any businesses walked away because of the current FAR and the answer is no. We also don't know specifically that that's not the reason. We just don't have that answer. They don't give the answer in that manner. So I don't know that that's really necessarily a key element in this discussion. Secondly, I think we need to hear the public comment. I think, as Mrs. Hazard said, we need to hear it from the perspective of the proposal, not from the perspective of the same. I don't think we'll generate the comments properly in that fashion. And lastly, I don't see where Spotsylvania has a different FAR because they're a significantly reduced amount of square footage in commercial or otherwise. They have 3,400 acres in commercial; we have 3,500 acres in commercial. That sounds about the same. They have, you know, 7,000 acres in industrial and we have 5,500 acres in industrial where they're much higher. So, that really isn't relevant either so therefore I will not support the substitute motion. Thank you Mr. Chairman.

Mr. Howard: Thank you. Just a point of clarification, Mr. Smith, the way that this was sent to us we can make a change the night of the public hearing as well, is that correct? A recommendation... a change in what we recommend to the Board of Supervisors.

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Mr. Smith: Mr. Chairman, I'm not sure that the ordinance that was referred to the Planning Commission, whether it...

Mr. Howard: Yeah, I don't have the original.

Mr. Smith: ... it included the language authorizing the Planning Commission to make amendments as it deems appropriate or necessary.

Mr. Howard: Mr. Rhodes has it.

Mr. Smith: It does so I think the Planning Commission in this case could send it, something different than what the Board has sent down to public hearing and then whether after the public hearing the Commission could send on something different than what was advertised would have to be examined in terms of whether those proposed changes were within the scope of the public hearing advertisement... whether the public would be on notice that those changes were something that could have come out of the public hearing. And, unfortunately, I don't think I can answer that question without knowing what those proposed changes would be.

Mr. Howard: No, I understand that; thank you.

Mr. Rhodes: But, Mr. Chairman, may I follow on that query to the County Attorney?

Mr. Howard: I suppose.

Mr. Rhodes: As I've understood it, the general rule of thumb is as long as it is not more restrictive or more dramatic of a change from the existing or something along those lines is our alteration, than it typically can be a modification we make to it going forward when we're allowed to make a modification. If it would be something that would be more impactful on the public or the community or more of a significant change, then we couldn't make that type of change because it hadn't been exposed. So it would seem to me if that's correct that if we have a proposed ordinance that has a change in the FAR and our choice were to modify what had been presented to the public for public hearing, back closer towards the existing one, that's less of a change of the ordinance and, therefore, that should be an acceptable one.

Mr. Smith: Mr. Rhodes, if I understand your question, it was if the Commission sent forward what the Board has sent down for its consideration and authorized a public hearing on that series of proposed FARs, increased FARs, that the Commission could then recommend to the Board something between what the Board has sent down and what the Commission may send to public hearing and what currently exists. And I think it's a general statement, as a rule of thumb, that would be considered within the scope of the public advertisement because it's between what currently exists and what has been advertised and, therefore, the public would be on notice that something in between that could also be adopted.

Mr. Rhodes: Thank you Mr. Smith. Thank you Mr. Chairman.

Mr. Howard: Thank you.

Ms. Kirkman: Mr. Chair?

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Mr. Howard: Ms. Kirkman?

Ms. Kirkman: As a follow-up on that, could the Commission at the public hearing decide to make no changes and move forward an ordinance that makes no changes?

Mr. Smith: Yes Ms. Kirkman, it could.

Ms. Kirkman: Thank you.

Mr. Howard: Thank you. And that was my reason for the question Mr. Smith, to get that clarification. I appreciate that, Mr. Rhodes with the follow-up question. I think Mrs. Hazard brings up a good point of how would the public know there was the thought of changing something if there's no change in the public... I think there's valid points on both sides of this argument. I think Ms. Kirkman also has a good point that I'm not sure I understand why there's this burning need to change this either but, at the same time, I'm leaning towards why don't we just advertise the change, see that the public comes forward and wants to talk through it and it gives staff some additional time to put a little meat, you know, a little more meat than they have behind the recommendations.

Ms. Kirkman: Mr. Chair, since you asked why, I'll say this. First off, this is a very arcane piece of land use law; the public's not going to rise up and comment on it. Let's be real here.

Mr. Howard: I don't know that, Ms. Kirkman.

Ms. Kirkman: Secondly...

Mr. Howard: I wouldn't make fun of the public like that.

Ms. Kirkman: Secondly, Mr. Chair, the... as we've seen over the course of the last year and a half or so, once something gets advertised it's pretty much a done deal. And that is why I'm opposed to moving forward these changes because I believe...

Mr. Howard: And you stated your case very well.

Ms. Kirkman: Mr. Chair, let me finish...

Mr. Howard: Well, you're answering me directly which is unusual.

Ms. Kirkman: Mr. Chair, I would like to continue. Um, and I believe that once this is advertised, it will go through as advertised. And that is why I'm opposed to doing so.

Mr. Howard: Okay. Ms. Kirkman, I now have the floor back and I'll hold the floor and when I'm ready to relinquish the floor I will ask if any Commissioners have additional comments. This way we don't get into this back and forth. I appreciate that. So, my point that I was making is I do think Mrs. Hazard had a good point that if the public doesn't see that there is a change, it's unlikely that they will understand that they could or should be paying attention and have some input. I think the public is a lot smarter than they're getting credit for here at the moment. So I am going to not support Ms. Kirkman's motion in this matter as well. And then I'll ask if there's any other Commissioners that

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have additional comments. Hearing none I'll call for the vote. So the vote that we're taking is the amendment as made by Ms. Kirkman. All those in favor of the motion as amend...

Ms. Kirkman: Excuse me, Mr. Chair; point of order. It was not an amendment, it was a substitute motion.

Mr. Howard: A substitute motion, thank you. So the vote that we're taking is the substitute motion that was made by Ms. Kirkman. All those in favor of the substitute motion signify by saying aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Opposed nay?

Mrs. Hazard: Nay.

Mr. Rhodes: Nay.

Mr. Hirons: Nay.

Mr. Howard: Nay. The motion does not carry 2 to 4. That brings us back to the original motion and is there any discussion on that motion?

Mr. Rhodes: No further comment.

Mr. Howard: All those in favor of the original motion that's on the table, which is to send to public hearing with the changes as proposed by staff, signify by saying aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay?

Mr. Fields: Nay.

Ms. Kirkman: Nay.

Mr. Howard: The motion carries 5 to 2. Thank you.

Mr. Rhodes: Four to two.

Mr. Howard: Four to two, thank you. Did I say 5-2? I think I did. Comprehensive Plan, item number 2 on the agenda. This is really just a quick update I believe on the implementation timeline. We'll hear from Mr. Zuraf.

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2. Comprehensive Plan: Implementation Plan (**Deferred at April 6, 2011 Meeting to April 20, 2011 Meeting**) (**Deferred at April 20, 2011 Meeting to May 4, 2011 Meeting**)

Mr. Zuraf: Yes, good evening Mr. Chairman and members of the Planning Commission. I just wanted to give you a quick update on the Implementation Plan. At your last meeting I advised you that what staff was really looking to do at this point was to seek input from the other departments that have a stake in this Implementation Plan. There are a lot of actions that they're going to be held responsible for so we have provided the Implementation Plan out to seven other departments for their input. And we are receiving responses; we have responses from four of the other departments at this point. Three have kind of provided their comments. Some were okay, some provided some modifications, one of the respondents is still reviewing. And we will be in the next week or so continuing to pursue additional response from the other departments and have additional information for you at your next meeting.

Mr. Howard: Is it likely you'll have the Implementation Plan updated with those changes?

Mr. Zuraf: At the next meeting? I would like to. That's what we'll aim for.

Mr. Howard: Okay.

Mr. Zuraf: Having not heard from the other three departments, I don't know how extensive their comments may be or concerns so that's what we will shoot for.

Mr. Howard: Right, okay. Are there questions of Mr. Zuraf on the timeline? Okay, thank you.

Mr. Howard: Item number 3 is the reclassification of the Quantico Corporate Center.

3. RC1000338; Reclassification - Quantico Corporate Center - A proposed reclassification from R-1, Suburban Residential and M-1 Light Industrial to B-2, Urban Commercial Zoning District to allow office, commercial, and retail uses on Assessor's Parcels 12-1, 12-3, 12-4, 12-5, 13C-A, and 13C-D, consisting of 15.06 acres, located on the north side of Telegraph Road, and east side of Interstate 95 within the Griffis-Widewater Election District. (**Time Limit: May 31, 2011**) (**History - Public hearing continued at March 2, 2011 Meeting to April 6, 2011 Meeting**) (**Deferred at April 6, 2011 Meeting to May 4, 2011 Meeting**)

Ms. Kirkman: Mr. Chair, my understanding is the applicant has requested a deferral of this to the next meeting. And with that in mind, at this time I'm making a motion to defer this matter to our next meeting.

Mr. Fields: Second.

Mr. Howard: Okay, discussion?

Mr. Rhodes: Have they indeed made that request?

Mr. Howard: I'm not sure, I guess that request has been made? Right, okay. Alright thank you. All those in favor of Ms. Kirkman's motion which is to defer... is that May 18th?

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Mr. Harvey: Yes Mr. Chairman.

Mr. Howard: To the May 18th Planning Commission meeting.

Mr. Rhodes: Do we have a time limit?

Mr. Howard: Yeah, do you have a time limit? We have until May 31st. Okay.

Mr. Harvey: Correct.

Mr. Howard: All those in favor of Ms. Kirkman's motion deferring the item number 3 to May 18th signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 6 to 0. That brings us to item number 4 which is the temporary family health care structures. I think we called these granny pods last meeting. Ms. Hudson, good evening.

4. Temporary Family Health Care Structures (**Time Limit: July 4, 2011**) (**Deferred at April 20, 2011 Meeting to May 4, 2011 Meeting**)
(**Authorize for Public Hearing by: May 18, 2011**)
(**Potential Public Hearing Date: June 15, 2011**)

Ms. Hudson: Good evening Mr. Chair, members of the Commission. At the last Planning Commission meeting you asked for some additional information regarding the temporary family health care structures. One of the questions that was brought up was how long does it take to establish Virginia residency. I did get some information off the website from the DMV. They require that you have a document that has a current address of a person's Virginia residence. I spoke with the Registrar in the County and she told me that to register to vote one needs to live here, have their car registered here and have a Virginia driver's license with the intent to remain here. Black's Law Dictionary defines a resident as a person who lives in a particular place and/or a person who has a home in a particular place. I do want to mention that in House Bill 1307, which is the House Bill that refers to the temporary family health care structures, the definition for a mentally or physically impaired person is taken from another part of the Code of Virginia which deals with Social Services. And that is where the reference to Virginia resident was found.

Mr. Howard: Okay.

Ms. Hudson: And that was the question.

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Mr. Howard: Thank you.

Ms. Hudson: I did get some information off the website regarding a company by the name of N2 Care, a Salem, Virginia-based company responsible for inventing the MedCottages revealed its prototype in 2010, last year. These cottages would retail for between \$65,000 and \$75,000 with about 100 being made in 2010. The research that I did on the website does not indicate any reference to any of these MedCottages being sold, rented, leased or even manufactured. I sent an email for additional information to the Director of Operations at N2 Care and I received no response. In 2010, Reverend Kenneth Dupin, the CEO and founder of N2 Care did request the then House Majority Leader H. Morgan Griffith from Salem, representative from Salem, to sponsor this House Bill 1307 allowing the temporary family health care structures and the Bill was signed into law and took effect July 1st of last year. I did some comparison emails with jurisdictions that we do comparisons with in the area and I have found that none of those jurisdictions have adopted an ordinance or special regulations. A couple of the jurisdictions have put into place what they would require for permits, but there's been nothing official into their zoning ordinance. At this time, no permits have been issued by the comparison jurisdictions in Virginia that we work with and there has only been one inquiry and that was in Fairfax. They had an inquiry but nothing further than that. I did get another email today from someone that I compare with from Fairfax and they haven't even begun to work on an ordinance. So, I'm just giving you that for information.

Mr. Howard: That was a very comprehensive response, thank you. Are there any additional questions? Mr. Fields?

Mr. Fields: Did you have a chance, Rachel, to look at other states?

Ms. Hudson: No.

Mr. Fields: Okay. I mean, I'm just trying to find out has this... is anything like this exist, actually exist on the ground anyplace? Is it actually in practice in existence?

Ms. Hudson: I can't answer that question because I did not (inaudible).

Mr. Fields: I know, it's okay. I know there's a lot of work to it, I'm still curious as to that and if you could find... any way... I don't know that there's any way you could find to do it but... you know what I'm saying. I think we're all trying to get our head around this idea of... it seems to be a brand new thing. It sounds like they haven't... while they, inventing this thing, it doesn't sound like they've sold any of them yet in Virginia, does it?

Ms. Hudson: No. I couldn't find any information that...

Mr. Fields: Does it sound like there's anyone that's been sold or installed or is up and running?

Mr. Howard: It could be a best kept secret too, though. I'm not sure most people know that this is (inaudible).

Ms. Hudson: It could be.

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Mr. Fields: Well, and I don't want to sound like I'm totally against them. I mean, I completely understand the dynamic of how when you... I mean, all of us, I know my family has had aging parent issues and looking at the cost of assisted living versus the cost of keeping them at home and realizing, you know, this could be a very viable alternative to that. I don't want to sound like I'm completely antagonistic to the idea; however, it's like anything like this. You know, boy if you could see how at least one or two of them have actually worked, it helps guide us much better; which is really all I'm getting at.

Mr. Howard: Absolutely.

Ms. Kirkman: Mr. Chair, I have...

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: So, if you could help me understand how this would work. Would the applicant have to get an occupancy permit for the temporary structure because would it be... would that be through a residential change permit? I'm trying to understand what the process would be.

Ms. Hudson: They would need to obtain a building permit. And of course building permits do then issue OP certificates... certificates of occupancy.

Ms. Kirkman: So these would have to meet all... like what building code would these pods have to meet?

Ms. Hudson: Well, that's what is in your... I think I put that information in your report from last, at the last meeting.

Ms. Kirkman: Because they don't have a foundation and that's part of what I...

Ms. Hudson: No, they shall not have a foundation. They shall not be a permanent...

Ms. Kirkman: Which automatically bumps them out of the residential building code.

Ms. Hudson: Let's see if I can find it here. It's somewhere here.

Ms. Kirkman: Right, but that's a different building code. I'm trying to understand what building code these would be covered under.

Mr. Fields: (Inaudible).

Ms. Hudson: It must comply with the applicable provisions of the industrialized building safety law and the uniform statewide building code.

Ms. Kirkman: So, what section of our building code covers temporary structures? What I'm trying to understand is what covers temporary structures, because that's what distinguishes this from the typical residential unit.

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Ms. Hudson: What is written in here, into the proposed ordinance, it's the uniform statewide building code, Virginia Codes 36-97. I am not familiar with building codes...

Mr. Howard: I can tell you, having to had to put temporary structures up for a business that it does fall under the building code and they come in and inspect the building as though that building was going to operate on a permanent basis. So they look at the electric, the plumbing, the actual structure itself; you know, all of the things that you'd have to see in a typical building... it has to pass. And it has to be done in phases; you can't just bring the unit there. And if you bring it there intact, you have to take pieces off so the building inspector can look behind just as they would do in a home or new construction for a commercial building.

Ms. Hudson: An industrialized building, the industrialized building safety law; they have to meet those requirements.

Mr. Howard: Right. That's been my experience and they're as thorough as they are with any other structure that you're using.

Ms. Hudson: Do you have any other questions?

Ms. Kirkman: Sure. And one of the real concerns I have about all of this is the enforcement aspect of it and particularly these not becoming just rental units. And how... like what would be the enforcement mechanism to ensure that these are being used solely for family care-giving and not as rental units?

Ms. Hudson: Well, we'd have to have documentation of the resident that is living in one of these units.

Mr. Howard: Isn't there... you mentioned last meeting there was an annual inspection required.

Ms. Hudson: Yes, and there is. And at any time, the local jurisdiction could inspect and make sure that...

Ms. Kirkman: What is the annual inspection? What does that consist of?

Mr. Howard: She told us at the last meeting.

Ms. Hudson: I think it states that in the State Code. I'm sorry... I just need to find it. One thing it does say in the State Code is that the evidence may involve the inspection by the locality of the temporary family health care structure at reasonable times convenient to the caregiver, but limited to any annual compliance confirmation. Number one, we would have to verify that the person that's residing in the unit still requires to have care.

Ms. Kirkman: So the County would have to set up a process...

Ms. Hudson: We definitely would have to set up a process, as well as we would have to... we would need to set up what we would require on a permit application.

Ms. Kirkman: Right, but the process for inspections would be what you all will have to create additional staff to go out and do this? I mean, I'm trying to understand how it would operate.

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Ms. Hudson: The zoning... us that work in the zoning division would be responsible to check to make sure that the facility was being used as intended.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Thank you.

Mr. Fields: To sort of follow up on Ms. Kirkman's concern, which I share, when you get to the inspection, it sounds to me like you almost have to have... this has to become cooperative with the Department of Social Services; because you're talking about inspecting... the ability to... the need for care and the criteria for that get to be a lot more expanded than simply zoning things. They get to be standards that are really more typically involved with things at Social Services and other care and health care parts our County are involved in.

Ms. Hudson: Well, we would be required to make sure that we have a certification in writing provided by a physician licensed by the Commonwealth, the definition of a mentally or physically impaired person means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living.

Ms. Kirkman: So would that certification be updated annually?

Mrs. Hazard: It can be.

Ms. Hudson: I guess we could require it to be updated annually.

Mr. Howard: It's on the original document under b. and c.

Ms. Hudson: The very last, which is g. in the Code of Virginia, it does state the local governing body or the Zoning Administrator on its behalf may revoke the permit granted pursuant to Subsection C if the permit holder violates any provision of the section. Additionally, the local governing body may seek injunctive relief or other appropriate actions or proceedings in the Circuit Court of that locality to ensure compliance with the section.

Ms. Kirkman: Sure, I understand that. But what I was asking is does...

Mr. Howard: Ms. Kirkman, Mr. Fields actually had the floor.

Ms. Kirkman: Oh, I'm sorry Mr. Fields.

Mr. Fields: Well, actually just one quick follow-up to that is that, and it's really more of a recommendation, is that a resource that we may want to recommend as this evolves into both an amendment and a policy is the local Area Agency on Aging, the Rappahannock Area Agency on Aging, which deals with both physical structural things in helping the elderly and the aged and other social medical issues as well. And that may even be something that gets... I don't want to be too far-fetched... but it may be something we request as a, as they call in Richmond, a tweak to the legislation so that the resources of the county aren't a thousand percent committed to having to implement this, that the resources of the Area Agency on Aging may be accessible and actually part of how we administer this. Because they would have resources and personnel and stuff that might be very well

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able to deal with a lot of this without having to suddenly create a specialized body of knowledge and expertise in the zoning department. So, it's just a thought. But I think that might help solve some of those problems... it's a possibility.

Mr. Howard: Mrs. Hazard, you had a question?

Mrs. Hazard: I guess I was just going to... when we go into the Code of Virginia that was referred to us, that Subsection C, first to Ms. Kirkman's comment about the Code appears to give us, it says the locality may require that the applicant provide evidence of compliance with this section on an annual basis, as long as the temporary family health care structure remains on the property. So it does seem like there is some recognition that there is going... that the locality may choose to do that on an annual basis. I would... and I know we're not getting to debate the Commonwealth's... but the first sentence of that says any person proposing to install this structure can first obtain, must first obtain a permit from the local governing body for which the locality may charge a fee of up to \$100. My comment to that is I think going to a few peoples' comments was how much is this going to charge for our zoning ordinance? I mean, I know we can't really go with the \$100 but that may be a tweak I would like to see more... if we are going to administer or have to administer a continual annual fee, \$100 may be not quite the amount of money for our person. But I'm just throwing that out in a general sense because I would sort of like to know from Planning and Zoning, what would this cost to administer?

Ms. Hudson: We did discuss that in a meeting that we had with the building official and other... the Virginia Department of Health... we had the meeting with and also the Utility Department in the County. And, at this point, we're really not sure. If the \$100 would be for a zoning fee then we would have to have a building permit fee... we're not sure about that.

Mr. Howard: Right. What is the building permit fee today?

Ms. Hudson: For an industrialized structure? I can't answer that.

Mr. Howard: Okay.

Ms. Kirkman: Mr. Chair, it's... there's a base fee but the part of it is dependent on the square footage.

Mr. Howard: Right.

Ms. Kirkman: And the value of the construction.

Mr. Howard: I would caution my colleagues that... Mr. Fields, you have a great point. There's also, you know, the HIPA laws will prevent the County Zoning and Building Department from "discovering" the medical condition of the occupant. The physician, the licensed physician in the State of Virginia, has the sole duty to sign off on that this person meets that criteria and really can't be questioned other than some other medical board who has oversight on the physician that has authority to question whether or not the physician is in fact right with their diagnosis. So, I don't... I think we're getting into some parts of this that really don't apply. This is the building permit portion of this that allows this facility, a temporary facility, to be placed on someone's property to help an ailing relative.

Ms. Hudson: And there's regulations to (inaudible).

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Mr. Howard: Those are the regulations that zoning would enforce, not to validate the condition, the medical health condition of the occupant. So I think that's way out of the scope of what this ordinance is really... or the spirit I should say, and the scope of where this ordinance is going.

Ms. Kirkman: Mr. Chair?

Mr. Howard: Ms. Kirkman.

Ms. Kirkman: I certainly concur that zoning's not in a position to determine whether the family member has impairment in two or more activities of daily living. However, I think we have established, based on Ms. Hudson's comments, that we can require physician certification and we can require it on an annual basis.

Mr. Howard: It is required.

Ms. Kirkman: No, right now it appears the only requirement is for an initial certification...

Mr. Howard: When you submit your application for the temporary structure.

Ms. Kirkman: Mr. Chair, if I could finish uninterrupted...

Mr. Howard: We'll see.

Ms. Kirkman: What I'm suggesting is that what we need is an annual recertification by the physician and it appears we have the latitude to do that under the State Code. And so I would ask that staff draft some language to add that as one of the additional special provisions under Section 28-39(e) is that the physician shall submit an annual recertification of the need.

Mr. Rhodes: The applicant shall submit.

Ms. Kirkman: Well, right now we need staff to draft the language to that effect and that's what I'm requesting.

Mr. Rhodes: I don't think we can direct the physician to submit; it would be the applicant (inaudible).

Ms. Kirkman: The applicant.

Mr. Howard: Right. When there's a building permit that's issued, unless there's a change to the structure, Ms. Hudson, is there... I don't think there's a need for someone to come back and renew that building permit is there?

Ms. Hudson: I don't believe so.

Mr. Howard: So I think it's a good request. I think you should research it, see if that's something that's applicable and (inaudible).

Ms. Kirkman: Mr. Chair, Ms. Hudson read us the provision of the State Code that seems to imply that we can take what steps... the locality can take what steps it deems necessary to ensure on an annual

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compliance. And certainly one of those things is to make sure that the physician still certifies that the applicant family member still meets the required criteria.

Ms. Hudson: We can certainly discuss that.

Mr. Howard: Yeah, I think it should be researched.

Ms. Hudson: I would probably discuss it with the County Attorney.

Mr. Howard: I think you should. I think it's a good approach. And see if in fact that's... and then I think you have to think through Ms. Hudson, can you actually do that? How do you facilitate that at the County or is that physical... that annual inspection a better way to accomplish what we're trying to accomplish here. Mrs. Hazard?

Mrs. Hazard: I think the only other comment from our discussion from last time was about subsection, well, 3(e)(3) I guess, of whether we thought that the health structure shall connect to the water and sewer; whether we thought that was going to be may. I think we had that discussion; I don't know if we got anywhere but if we were asking for it to be examined, I think we had had a discussion that the may...

Mr. Howard: There was some discussion on that; I don't recall (inaudible).

Mrs. Hazard: ... but I just raise it when they're going back to revise, why not revise once. So, I just put that before the Commission, if there was any leaning that way to modify the shall to a may.

Ms. Kirkman: Mr. Chair?

Mr. Howard: Yes Ms. Kirkman.

Ms. Kirkman: I think if we modify the shall that really what we need to state is either it's connect to public water and sewer or to a sewage disposal system that's certified by an AOSE or whatever we happen to be calling them that day.

Mr. Howard: Right. Or would you explore must be connected to the existing water and sewer that the home is on?

Ms. Kirkman: I guess the reason I wouldn't consider that type of language is unfortunately, particularly is some of the rural sections of the county, there are a lot of septic systems out there that there's actually no documentation even in the Department of Health of their existence or their condition or their adequacy to support additional use. And so that's why I think you do need some sort of process to ensure that the additional occupancy won't overload the system; because we've actually had matters before us where that's been a problem where the sewage, the onsite sewage disposal system is inadequate to handle the number of occupants on the property.

Mr. Howard: Well, I'm not positive but I would think in the building code, I'm sure some of that's checked and looked at and reviewed (inaudible).

Ms. Hudson: We have had conversation with Tommy Thompson regarding...

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Ms. Kirkman: They're actually... Mr. Chair, the building code actually does not govern that. It's an entirely separate section of the law.

Mr. Howard: Thank you Ms. Kirkman. Any other questions for Ms. Hudson? So it looks like the desire is to move this to the May 18th meeting as well and ask you to come back with those answers.

Ms. Hudson: Okay.

Mr. Howard: Thank you. We're now at that magic hour...

Mr. Fields: Mr. Chairman?

Mr. Howard: Mr. Fields?

Mr. Fields: I just... I don't want to be persistent, if I could just... because we've talked about a lot of things. Just to be clarified that if possible, the most important thing that I'm personally looking for is an example of anything like this existing anywhere in the country to give us some sense of what it looks like and how it's been done.

Ms. Hudson: I will see if I can (inaudible) that information.

Mr. Fields: If you can; don't hurt yourself. Because we talked about a lot of things, I didn't want that to get lost in the shuffle. Thank you.

Ms. Hudson: It's on my list.

Mr. Howard: Thank you. Alright, we'll now open up the meeting this evening for public presentations. Anyone wishing to address the Planning Commission on any item that is not part of the public hearings this evening may do so. We do have two public hearings scheduled this evening; the first public hearing is the reclassification of Cambridge Properties which is actually a continuation from the last meeting, and that will be a brief quick one. Then we have item number 8 which is an amendment to the Stafford County Comprehensive Plan which involves the Urban Development Areas. If you're here to talk about item 8, because I'm not sure we'll open it up for public comments on item 7... in fact, we won't... if you're here to talk about item 8 I would just ask you to wait until after the public presentations. So, anyone wishing to address the Planning Commission on anything that's not part of a public hearing this evening can do so by stepping forward to the podium. You have three minutes to address the Planning Commission when the green light goes on. We just ask that you state your name and address and then you can begin your conversation. We won't get into a two-way dialogue; when the yellow light goes on you have about a minute left to conclude your comments and then when the red starts to flash, we just ask you to conclude your comments and allow the next speaker to address the Planning Commission. Anyone wishing to address the Planning Commission on anything other than item 8 may do so by stepping forward to the podium.

5. **Wetland Mitigation Bank (Time Limit: July 4, 2011) (Deferred at April 20, 2011 Meeting to May 4, 2011 Meeting)**
(Authorize for Public Hearing by: May 18, 2011)
(Potential Public Hearing Date: June 15, 2011)

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Discussed after Public Hearings.

6. Rappahannock River Overlay District and Potomac River Overlay District (Referred back by Board of Supervisors) (**Time Limit: October 6, 2010**) (**History - Deferred at June 16, 2010 Meeting to August 18, 2010**) (**Deferred at July 21, 2010 Meeting to September 1, 2010**) (**Deferred at September 1, 2010 Meeting to October 6, 2010 Meeting**) (**Deferred - Requesting additional time from Board of Supervisors**)

NEW BUSINESS

None

7:30 P.M.

PUBLIC PRESENTATIONS

Mr. Waldowski: Paul Waldowski. Today is Star Wars Day.

Mrs. Bullington: Computer please.

Mr. Waldowski: May the fourth be with you. Today I went on the web, I don't think today, I think I did it 24 hours before. And I brought this up that State Code requires that Planning Commission review and make recommendations of the comprehensive plan, which I am not talking about, or Capital Improvements plan changes. I am here to talk about what I call a 21st century example of a subdivision and it was built in 2005. And I just want to use it as an example of lessons learned for any other new developments that come about in this century. Next slide please. The subdivision that I am talking about is called the Gables of Augustine. It consist of 25 houses that were built in 2005 and it is hard to see the existing State Road that was Quail Ridge Run that is still available on GPS's but now it is called Pickett Lane because of all the picket fences that are in here. Now what is neat about this subdivision is it does have sidewalks but it has not street lights. We do get water bills yet there is massive water runoff that comes in. I can't wait until the YMCA gets built, which will be in the lower middle of this diagram across the street from the County Park. I call it the Rockville County Park that me as a member of a HOA pays for. And there is an over 55 community directly across the street who has a storm pond who doesn't have to pay for it. And though I qualify in being over 55 and smarter than a fifth grader I have to pay for this park. Now in the upper right-hand corner is a storm pond, which is one of my favorite topics and I love that existing Vista Woods residents get to use the storm pond for free. Now the neat part of the subdivision is I love that there is an existing State Road so my HOA dues don't have to go to plowing both Picket Lane and Crawford Land. But what really appalls me is because we have this HOA prevalence in this county I still have to have a trash service picked for me from a socialistic means and I don't see why I have to pay because maybe I want to take it in my '89 Volvo to the dumpster all by myself. Next slide please. And to conclude, I wanted to give you a ground view of my park. I invited the Board of Supervisors to come for a BYOB; that means bring your own barbeque. And don't worry about it, my HOA dues will clean up everything. Thank you.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission on any other matter than item 8 on the agenda this evening may do so by stepping forward. Seeing no one else

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advancing, we will now open up the public hearing portion of the meeting this evening. We have on the public hearing portion a carryover which is reclassification of Cambridge Properties, RC1100061 and we will hear from Mr. Zuraf on that.

PUBLIC HEARINGS

7. RC1100061; Reclassification - Cambridge Properties, LLC - A proposed amendment to proffered conditions to modify the permitted commercial uses on Assessor's Parcel 45-213. The property is zoned B-2, Urban Commercial Zoning District, consists of 4.72 acres, and is located on the southeast corner of the Cambridge Street (US Route 1)/Manning Drive intersection within the Falmouth Election District. See Section 28-35 of the Zoning Ordinance for a full listing of permitted uses in the B-2, Urban Commercial Zoning District. **(Time Limit: July 19, 2011) (History - Public hearing continued at April 20, 2011 Meeting to May 4, 2011 Meeting)**

Mr. Zuraf: Good evening again, this case... we had a public hearing at your last meeting on April 20th. This was for an amendment on proffered conditions on this property that is on the southeast corner of Manning Drive and Cambridge Street, US Route 1. The property is zoned B-2 and the public hearing at the time last week was kept open and continued to this meeting. There were several issues raised by the Planning Commission and the proffers were since modified to attempt to address some of the concerns. You did tonight receive... you received proffers in your package but tonight also you did receive a follow-up version of the proffers with additional modification, which I will get into in a moment. Going first to some of the concerns addressed, there was a concern that the proposal was not in conformance with the traffic impact assessments requirements that the State has and the State Code and the requirements in the County Code. We addressed that in our memo to you. VDOT has specific requirements for traffic impact assessments if traffic that is generated on a site that is non-residential or commercial. If it exceeds 250 vehicles per hour or 2,500 vehicles per day, a Traffic Impact Assessment would be needed. For the County, the threshold is a thousand vehicles per day. If the project exceeds a thousand vehicles per day, whether it is commercial or residential, a Traffic Impact Assessment would be needed. Neither the State nor the County Code addresses or accounts for future phasing of Traffic Impact Assessments. So in response to that, the applicant has modified the proffers to cap the intensity of the development that would occur on the site in all phases of the development so that in total there would be no more than a thousand vehicles per day generated from the uses on the site. So what that would all mean for us here is that should any use come in and be proposed that would end up exceeding that thousand vehicles per day then the property owner would have to come in for a proffer amendment and do a full Traffic Impact Assessment at that time. So those revised proffers are included in the latest version. In the version you received and there were no changes to that in the latest version you received today. Proffer B1 was modified in an attempt to clarify how the proffers apply to the different phases of development. As you know, this proposed Phase A portion of the use of the existing building and then there was Phase B1 and B2. So we modified Proffer B1 to attempt to clarify how the different phasing applies to the different proffers. Since the mail-out of the memo and the proffers that you had received then, there was a follow-up meeting with the applicant and Mr. Hirons this past Monday. We discussed some additional proffers and some additional proffers were included in what you received today. And also a new General Development Plan which clarifies some of these changes that were discussed. The additional revisions that you received was the inclusion of a provision to restrict access from the site on the Cambridge Street so that it would be a right in/right out only and that would be in all phases of development. In Phase A there is a provision and there was a concern that under the current situation, VDOT might not accept kind of what is

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known as kind of a pork chop kind of layout because there may not be enough curvature. So there is a provision in Phase A that if VDOT for some reason does not like the right in/right out through the use of curbs and installation that way that signage would be installed in Phase A, 8A.

Mr. Howard: Is there also a deceleration lane that exists there today?

Mr. Zuraf: Not...

Mr. Howard: If you are heading northbound on Route 1?

Mr. Zuraf: Not into this site. It might be beyond that entrance.

Mr. Hirons: The very beginning of the taper for the right-hand turn onto Manning Drive begins right at the entrance.

Mr. Howard: Okay.

Mr. Zuraf: And proffer B5 then, there was always a provision to restrict the access there to right in/right out, so that has just been changed to clarify that in Phase B1 and B2, that right in/right out would apply. The second change in Phase B, the applicant included a proffer that a left turn lane would be added to Manning Drive at its intersection with Route 1, Cambridge Street; that is proffer B7. And then the third change to the proffers was that no... if there is any monument signage on Manning Drive, that signage would not be backlit or any lighting would not be shining on to any residential properties. And that would apply to all phases, so that proffer is in 10 and B15, basically the same language in both. The changes regarding the right in/right out were included on the GDP and also the left turn lane on Manning was included on the GDP in Phase B2. The last sheet, page 4, shows the left turn lane how that would be... would occur on the site. And also the applicant did move those handicap spaces on Phase B2 closer to the entrance.

Mr. Howard: Did they also remove the drive-through?

Mr. Zuraf: I don't believe so.

Mr. Howard: Maybe I looked at it the wrong way.

Mr. Zuraf: No Sir.

Mr. Howard: It's there. Okay.

Mr. Zuraf: And those... that is a summary of the changes and I will open it any questions.

Mr. Howard: Thank you. Any questions of Mr. Zuraf? Ms. Kirkman?

Ms. Kirkman: So you did in fact confirm that there is an impact analysis required when it is 500 or more vehicles per day? Are there any standards in our Code for that impact analysis and what it needs to include?

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Mr. Zuraf: Yes, that is the... well, I don't have it in front of me but the next section after the discussion of... yes, there are standards within the Code that list out what an impact statement includes.

Ms. Kirkman: What section of the Code is that, because I am trying to find that right now?

Mr. Zuraf: Jeff, do you have the Code?

Mr. Harvey: I am looking it up...

Mr. Zuraf: It might be 28-203 (d) maybe.

Ms. Kirkman: So it refers back to the State Code.

Mr. Zuraf: The Traffic Impact Assessment refers back to the State Code, not the County impact statement or impact assessment.

Ms. Kirkman: So the only requirement we have is the current capacity of any anticipated demands on the highways.

Mr. Zuraf: And then we received the impact statement. It's that more simplified impact statement that we usually receive with all cases and it was included with the application.

Ms. Kirkman: Well, the only thing I could find in the application and maybe you could point out what you are referring to, is a paragraph under impact statement 3F, which simply describes that there is a 10 foot right-of-way dedication; it doesn't, as far as I can see, talk about the current carrying capacity or any of the sorts of things we often see on an impact statement. If you could point out to me where it makes any kind of assessment of the current capacity?

Mr. Zuraf: There is... well, aside from this document, there is also within the General Development Plan, there are tables that identify the traffic generation on... from the uses that are included, but...

Ms. Kirkman: Right, but where is there an assessment of the current capacity?

Mr. Zuraf: On the road network?

Ms. Kirkman: Uh-huh.

Mr. Zuraf: That is in our staff report to the vehicle trips per day.

Ms. Kirkman: Well, that is vehicle trips per day; that is different than the current capacity of the existing road network. Where I have most often seen those things expressed is in terms of level of service, that sort of thing.

Mr. Zuraf: That we usually get through the more detailed Traffic Impact Assessment but it's typically on these more simplified statements we don't see the full...

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Ms. Kirkman: I understand you don't see the full, but I am asking where is there any assessment of the current capacity of the existing network.

Mr. Zuraf: I don't believe that's in here.

Mr. Howard: Do you know what the current level of service is for that intersection?

Mr. Zuraf: No.

Mr. Howard: Okay.

Mr. Harvey: Mr. Chairman?

Mr. Howard: Yes.

Mr. Harvey: The applicant's engineer is here tonight and he might be able to speak to general capacity issue for designing roadways, because he is familiar with designing various roadways in the region.

Ms. Kirkman: Mr. Chair, I appreciate hearing from the applicant on that issue, but my primary concern was whether or not this application was complete when it was submitted. And I mean very clearly there needs to be, by our own ordinance, some minimal assessment of the current traffic conditions and the anticipated impact. And I'm looking for where in this application is a description of the current capacity of the existing road network?

Mr. Zuraf: Okay. I mentioned it already; I don't see it in this impact statement.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Any other questions of staff? Since the public hearing is still open technically, we can hear from the applicant if they have any other issues they want to address with us, which would be the normal process that we would go through. So if the applicant has a desire to step forward they can and they don't have to.

Mr. Furnival: Good evening, Rick Furnival with Sullivan, Donohoe and Ingalls representing the applicant. My understanding of the requirements are that the level of service of the traffic network is part of the Traffic Impact Assessment that Mike spoke to and it is not a apart of the more general traffic count associated with the development that we have provided. And that was the reason for stipulating that the traffic would not exceed the threshold for the requirement of a Traffic Impact Assessment. I think Mike has covered the other changes that we have made to the site plan... or excuse me, the Generalized Development Plan... based on conversations with staff and with Mr. Hirons.

Mr. Howard: I guess the question I would have is how do you know that? How do you know that what you have proposed is not going to exceed the traffic count that would require a TIA?

Mr. Furnival: Well, when you come in with a use, there are guidelines that we would use to predict what the traffic count would be for that use.

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Mr. Howard: Okay, so what is the use that you are proposing on the GDP?

Mr. Furnival: For the Phase A, we proposed that it would be the highest intense use was the sit-down restaurant, which we really don't intend to do that, but we were asked to demonstrate that it would not exceed...

Mr. Howard: That was 900 and something vehicles per day?

Mr. Furnival: Exactly. And when we come into a second phase, let's say Phase B1 where we are using the existing building and there would be a development of the... proposed development of the site, we would analyze what the use is of the current building at that time. What the traffic estimates for that are and then we would then have to restrict the square footage of whatever we were proposing on the second part of the site so that it would not exceed the 1,000 vehicles per day. And then if we move to Phase B2 where there was a full redevelopment of the site, whatever it would be would have to not exceed that 1,000. And we would do the same thing and we would say okay if we've got a pharmacy here and an office here, then here is the traffic count and it can't exceed a thousand. If it were to... if somebody came in and wanted to install or construct something that would predict to exceed that, then we would have to come back to you all and get a proffer amendment at that time.

Mr. Howard: Okay, thank you. Are there any other questions of the applicant?

Ms. Kirkman: Mr. Chair?

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: So one of the things that perhaps has been confusing is that there are actually two different requirements regarding the traffic impacts. One is the state mandated Traffic Impact Assessment and the threshold for that is a thousand vehicles per day. The second is the County's own ordinance which existed prior to Chapter 527 and the threshold for that is 500 vehicles. And that impact states that impact analysis is supposed to include the current capacity of and the anticipated demands on the highways. And so the issue here is whether there is level of service or not because our County Code does not require the level of service. But there does need to be some assessment of the current capacity of the existing network. And that is what I was looking for in the application. Where does that assessment of the coregent capacity exist?

Mr. Furnival: I am confused because when I was listening to Mike's report he said that the State requirement was... or the threshold at the State level was 2,500 and that the County threshold was 1,000.

Ms. Kirkman: No, the State threshold is a thousand and the County threshold is 500, but perhaps staff would want to...

Mr. Howard: Mr. Harvey, can you clarify the County Code?

Mr. Harvey: Mr. Chairman and Ms. Kirkman, we have two thresholds referenced in our ordinance. One is the thousand vehicle trips per day which is different than VDOT, but it refers to the VDOT standards for that level of study. The other is the reference for 500 trips or more a day which would require a, what is termed as an analysis. Again, Ms. Kirkman read from the Code it is looking at what

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the current capacity versus the anticipated traffic from that site. So typically you would see with a two-lane road it would carry X amount of traffic when you design it, the same with a four-lane road. And that is what you norm... I think what Ms. Kirkman is saying, you should have that comparison of what a two-lane road potential capacity versus what this site's traffic would generate.

Mr. Howard: Well, there ought to be some analysis because they are proposing a left-hand turn lane that does not exist today and they have agreed to the right in/right out only on Route 1 recognizing that additional traffic will be coming to that location because it is going to have a new and different use.

Mr. Furnival: Mr. Chairman, our response to providing the left turn lane was more directed towards the reports of the current condition. People were saying that during peak times traffic was backing up in that area and they were looking for a remedy to that. And we said that at Phase B2 that we would provide it.

Mr. Howard: So you... there was some diagnostics or there was some research done and then you found out through residents or other means that there is some congestion with the current existing condition and your remedy for that is to put in a left-hand turn lane?

Mr. Furnival: That's right. Mr. Hirons was the one that gave us the reports of that.

Mr. Howard: Okay, it's just not written anywhere and documented within your application which is what Ms. Kirkman's point is. That's the way she is reading that Code in Stafford is that should have accompanied the application.

Mr. Hirons: Mr. Chairman, I just want to make sure that is referenced correctly that that was my discussion with the applicant.

Mr. Howard: No, I understood.

Mr. Hirons: More antidotal. It was...

Mr. Howard: Absolutely.

Mr. Hirons: It was not an official recording; it was my driving on the road almost on a daily basis.

Mr. Howard: Still, that is what... I think that's what that part of the code is saying. Someone has to go out and take a look and do some analysis. What is the current level of service there and what impact if any will a new buildings and businesses have? And it sounds like it has been done and it has not been done to the satisfaction of the County Code, I don't think but I don't know that for sure. But I think that is Ms. Kirkman's point.

Mr. Furnival: Yes sir.

Ms. Kirkman: Mr. Chair, just to clarify my point and again I want to recognize I think the applicant has probably not gotten very clear direction in regards to this. I think our County Code is very clear and to be quite honest this is the first rezoning application that I think that I have seen in about seven or eight years that didn't have some minimal assessment of the current traffic capacity. Now most often those assessments refer to things like level of service but our County Code doesn't require that

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that's the standard. And so my concern here is a larger one about the applications as they are accepted and moved forward to the Planning Commission, because antidotal is important but that is really not the basis of upon which we should be making decisions.

Mr. Howard: Okay. Any other questions for the applicant? Thank you.

Mr. Furnival: Thank you.

Mr. Howard: Hearing none I will bring it back to the Planning Commission for discussion. Well, I announced that I would not allow speakers on this matter. So Mr. Hirons this is in your magisterial district.

Mr. Hirons: Well I think I am going to... I kind of listened to the discussion here and I have a feeling some folks have some things to say here. I come in with the intention of making a motion here to move this forward but I think there may have been some issues here discussed and pulled out that I definitely want to hear more about if any of my fellow Commissioners would like to discuss and...

Mr. Howard: Well, are you making a motion then to close the public hearing and then move it to the next meeting? I'm not sure what you are doing.

Mr. Hirons: I'm not sure either.

Mr. Howard: Okay, fair enough. Now we are in discussion.

Mr. Hirons: I may have a question for Mr. Harvey and this is a simple question of, I think it's... the discussion has kind of been of the application may not be complete. What is your assessment of that statement? Is this application complete or is there more we should be expecting from this applicant?

Mr. Harvey: Thank you Mr. Hirons. Staff has viewed the application as complete and in our past practice with the Commission is that typically for applications we looked at or were focused on what would be the additional traffic impact or capacity issues with the new use. I understand Ms. Kirkman's point and it is well taken that you have to have something to measure it against. So this... there is no statement to measure it against as in a two-lane road typically carries 10,000 vehicles trips per day and this use could generate up to a thousand vehicle trips per day. We don't have that which we traditionally have not had that in our staff reports. So that is something that we need to look forward to and focus more on for future applications.

Mr. Howard: Okay, thank you.

Mr. Hirons: Just a quick follow up there Mr. Chairman. I think you just said it hasn't necessarily been in past applications. But as Ms. Kirkman has several years' experience she has indicated that every application that she has seen has had some sort of analysis. Have there been applications similar to this with fairly... pretty much no analysis?

Ms. Kirkman: That is of these larger types, I mean we have had very small rezoning's that of course don't need this.

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Mr. Harvey: Yes, this is a little different than the usual situation in that this is a proffer amendment; it is not a change in zoning classification. And as Ms. Kirkman says it is sort of a smaller project, so usually with a high traffic use you are definitely triggered the need for a traffic impact study that looks at multiple intersections and multiple road sections. Which this is a project that in and of itself right now as it is proposed wouldn't meet those thresholds.

Ms. Kirkman: But it does meet the 500 threshold that is outlined in our ordinance, correct?

Mr. Harvey: That is correct.

Ms. Kirkman: That is what I meant by small, the ones that don't meet that 500 threshold.

Mr. Howard: Okay. Thank you. Any other questions or comments?

Mr. Fields: Yes.

Mr. Howard: Mr. Fields?

Mr. Fields: Mr. Chairman, I don't... and I know we are not technically debating it. I would just like to, if Mr. Hirons seems to be sort of asking for comments. So briefly my concern at the end of the day is like a lot of these things. I am a little concerned that the applicant here is... the idea of these thresholds... whenever you set a threshold you realize that just above and just below an arbitrary threshold is somewhat of a... you are always creating a fairly random and arbitrary line. Right, like what is the difference between 995 vehicle trips per day and 1,005? If you have a thousand threshold you realize that within a range of plus or minus that threshold you have the same virtual effect. These thresholds are just there because at some point for regulatory purposes and for law you have to draw lines and you have to make them. My concern here is that we are going through a lot of machinations to just skate underneath the threshold and the point is not really that a thousand trips... 1,005 trips per day is or has a much more negative effect than 900 and whatever their maximum trip per day. The point is that at certain scales in orders of magnitude the usage of a property has an impact... has an impact that affects the transportation network of the area of which it exists. And I am concerned that what the applicant has done here is attempting to meet and meet a certain very specific regulatory concept. We have lost the real purpose of this which is to understand how this... how the traffic impact of this project moves forward. And so I am a little concerned about moving forward partly because of the nature of that process. Thank you.

Mr. Howard: Any other comments before Mr. Hirons...

Ms. Kirkman: Did he make a motion?

Mr. Howard: He did not make a motion, no. I appreciate Mr. Fields comments and Ms. Kirkman's comments and I truly believe they were in the spirit of the way that the ordinance was designed. I am not sure at this point going backwards with this applicant makes sense. I think Mr. Harvey stated it very well. But I also recognize this is a proffer amendment more than this is a rezoning and it is a little different. In my mind it is a smaller... very much smaller in scope and I would support the motion to move this forward if that is what Mr. Hirons wants to do.

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Ms. Kirkman: Could we get clarification from the attorney? I thought proffer amendments were considered rezoning applications under our ordinance?

Mr. Smith: Ms. Kirkman, I don't know if I can answer how staff has previously used that specific term...

Ms. Kirkman: I was asking about the ordinance itself.

Mr. Howard: That is my comment Ms. Kirkman. I appreciate that. I could very well challenge many comments made tonight but I elect not to do that. I think this is a proffer amendment and that is all I am looking at with this and it is not as big in scope as a rezoning would be and it's a much smaller project. So those are my comments and you are free to challenge that but I don't think the attorney needs to answer my comments.

Ms. Kirkman: Mr. Chair, I was just asking for clarification from the attorney.

Mr. Howard: I understand.

Ms. Kirkman: I understood technically this fell under a reclass... a rezoning but if that's not the case the attorney could clarify that.

Mr. Howard: Any other comments? Mr. Hirons, the ball is still...

Mr. Hirons: Mr. Chairman, do we need a motion to close the public hearing?

Mr. Howard: I think we do.

Mr. Hirons: Then I will move to close the public hearing.

Mr. Howard: Second for discussion. Mr. Hirons, you would have the first discussion.

Mr. Hirons: I was just going to ask do we typically have a Board motion to close a public hearing.

Mr. Howard: We do when we carry over a public hearing, yes.

Mr. Hirons: Okay. I will support my motion.

Mr. Howard: We have in the past, yes. Any discussion on that? Alright, so the vote is whether we are closing the public hearing this evening on the reclassification of Cambridge Properties, LLC, which has no bearing on the outcome of the application. All those in favor of closing the public hearing on RC1100061 signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

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Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? We're now into item number 8 public hearing which is amendment to the Stafford County Comprehensive Plan.

Ms. Kirkman: Mr. Chair, it doesn't...

Mr. Howard: Well, we closed the public hearing for that and we're in public hearing session. Typically what we've done is this item stays on the agenda and we'll have to come back to it because it's going to show up as old business. That's what would happen. So, that's my recollection as we've handled those in the past, only when there's another public hearing item...

Mr. Hirons: Okay.

Mr. Howard: ... you know, scheduled so as not to drag out the other public hearings. Okay, so item 8 is the amendment to the Stafford County Comprehensive Plan (the Comprehensive Plan). The County proposed to amend the textual document entitled Stafford County, Virginia, Comprehensive Plan 2010-2030, and its accompanying Land Use Map, both dated December 14, 2010, to allocate 4,000 dwelling units to Urban Development Areas. We'll hear from staff on this.

8. Amendments to the Stafford County Comprehensive Plan (the "Comprehensive Plan") - The County proposes to amend the textual document entitled "Stafford County, Virginia, Comprehensive Plan 2010-2030," and its accompanying Land Use Map, both dated December 14, 2010 to: allocate 4,000 additional dwelling units to Urban Development Areas (UDAs) by establishing one new UDA, and increasing the number of dwelling units in, and expanding the geographical boundaries of five of the six existing UDAs; modify the Urban Services Area (USA) boundary in the Widewater area of the County; designate all of the land to the east of the proposed USA in Widewater as "Agricultural/Rural" on the proposed Land Use Map, with the exception of Patawomeck Park and Widewater State Park, which would be designated "Park" on the proposed Land Use Map, and; remove several planned transportation improvements as a result of the modifications to the land use designations and USA in Widewater. **(Time Limit: May 4, 2011)**

Mr. Zuraf: Can I have the computer please? Okay, this is the amendment to the Comprehensive Plan for Urban Development Areas. The proposal would amend the following documents within the Comprehensive Plan: the textual document entitled Stafford County, Virginia, Comprehensive Plan 2010-2030, and also the accompanying Land Use Map as part of that document. Within this document the portions to be amended, which you've received in your package, are portions of Chapter 3, the Land Use Plan, portions of Chapter 4, the Transportation Plan, and portions of Appendix G. The general changes in the proposal are to allocate 4,000 dwelling units into Urban Development Areas. And some of the specifics to that would be adding one new Urban Development Area... and I'll get into the details of these... expanding the boundaries of five of the six existing Urban Development Areas and, as part of that, increasing the planned commercial development and infrastructure in some of these Urban Development Areas. Also, in the Widewater area of the County, modifying the Urban Services Area boundary in that location, amending the Land Use designations in the area, and removing certain planned transportation improvements. This also would modify the Urban Service

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Area boundary in the Centreport Urban Development Area. For some background on how we got here, back in December, on December 14th of 2010, the new Comp Plan document was adopted with six of the originally eight proposed Urban Development Areas as part of that document. At that time, when the plan was adopted, a process was established to allocate the remaining 4,000 dwelling units and a joint Board and Planning Commission Committee was established to carry out that work. And, just to kind of back up a bit, I brought some clarification. State Code Section 15.2-2223.1, that's the section of the State Code that mandates the designation of Urban Development Areas as part of localities' Comprehensive Plans and these Urban Development Areas have to be sufficient to meet projected residential and commercial growth for a period of either 10 to 20 years. And as the County went through this process, they were focusing on the 10 year projected level of growth and, specifically, as it relates to residential that relates to 14,661 dwelling units. At the time when the plan was approved in December of 2010, 10,661 dwelling units were designated within the six Urban Development Areas, so you have the difference of 4,000 that remain in order to comply with the State Code. The deadline to designate these Urban Development Areas is July 1, 2011, per the State Code. On January 25th and February 7th of this year, public workshops were held to seek community input. The joint Board and Planning Commission Committee met in advance of this and felt that having these public workshops would be valuable in figuring out where to allocate these units. Subsequent to these public workshops, on February 9th the joint committee made certain recommendations on the allocation of the 4,000 units in response to the input that was received from these public workshops. Then on February 15th their recommendations were moved onto the Board of Supervisors; they reviewed that information and modified the recommendations. And that was done through Resolution R11-78 that's included in your package. Then on February 23rd the Planning Commission had a special meeting to review the Board's specific recommendations. At that time, the Planning Commission did consider some alternatives but did not authorize a public hearing on their alternatives or the Board's alternatives. Then on March 1st the Board of Supervisors, at their next meeting, they did extend the Planning Commission deadline from I believe early April to May 4th and, at the same time, directed the Planning Commission and staff not to schedule any hearings and that was through Resolution R11-89. Then on March 15th, the next Board meeting, they did adjust their previous recommendations and provided a specific resolution for the Planning Commission to conduct a hearing and provide recommendations on their specific recommendations, and that was R11-94. Then on April 6th the Planning Commission did authorize this hearing. Now, to kind of go through some of the details of these Urban Development Area amendments and to kind of set some ground... what did happen when we were allocating these units, we did work to maintain the original mix of dwelling units that was proposed back prior to the 2010 adoption of the document. And we did work to redistribute the public facilities from the former areas into these new areas. Looking at the overview of the County's Urban Development Areas, these dots kind of illustrate location of the changes. The blue dot represents the new Urban Development Area; this is at the Brooke Station. In this location there would be 870 new units here. The yellow dots, the five yellow dots, represent the existing Urban Development Areas that would be amended. In this location, this is the Courthouse Urban Development Area. In all these locations the boundaries would be expanded. This location is the George Washington Village Urban Development Area; this is the Centreport Urban Development Area near the Centreport interchange off 95. Off of 17 west of 95 is the Southern Gateway Urban Development Area and also the Leeland Station Urban Development Area would be expanded. The one that would not change is the Eskimo Hill Urban Development Area in green. Now going to the specific Urban Development Areas, the Brooke Station Urban Development Area is located around the intersection of Andrew Chapel Road and Brooke Road... that intersection is basically in this location here... and around the Brooke VRE. It covers 184 acres. Looking at the mix of this chart above, it shows you the mix of the 870 units that would be added into this location. It would also include approximately 174,000 square feet of

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commercial development. Public facility improvements recommended in this area would include one acre of parkland for every four dwelling units. This would be done through means such as Transfer of Development Rights as stated within the document. Also, improvements to Brooke Road from Eskimo Hill Road to the VRE station, and also upgrading the existing Brooke Fire and Rescue Station and adding a bus shelter at the VRE station. This map to the left identifies the current land use designation which it actually, when the document was approved back in December and the plan was approved, the area became undesignated and the proposal then would make this same area as an Urban Development Area.

Ms. Kirkman: Excuse me, before we move away from Brooke, I have some questions regarding that... if we could go back a slide.

Mr. Zuraf: Sure.

Ms. Kirkman: So the last Land Use Map, the one that was approved in December, did not have a land use designation; prior to that, what was it?

Mr. Zuraf: There were several designations; there was a Rural Commercial designation and I believe Rural Residential.

Ms. Kirkman: And the surrounding land use right now is what?

Mr. Zuraf: It's Agricultural/Rural.

Ms. Kirkman: Okay. And is there a public water and sewer out there now?

Mr. Zuraf: No there is not.

Ms. Kirkman: Any multi-family, the 120 multi-family... does that mean apartments when we say multi-family?

Mr. Zuraf: That could either be apartments or condominiums which...

Ms. Kirkman: Are condominiums come under multi-family or townhouse?

Mr. Zuraf: I would say that would come under multi-family. Townhouses to me would be the, you know, separate kind of parcels... could be separate parcels all together.

Ms. Kirkman: Alright, thank you.

Mr. Zuraf: Next is the Courthouse Area; this area shows you the hatching. The hatching identifies the area of expansion of the Courthouse Urban Development Area. The expansion would be to the south of Hospital Center Boulevard between US Route 1/Jefferson Davis Highway and Courthouse Road. This area of expansion would cover 237 acres. The chart again here shows you the mix of additional units, how the 730 additional units would be allocated in this new area. It would also include approximately 1.4 million additional square feet of commercial development and additional public facilities in this area would be a 400 space park and ride lot in this area. The current land use designation in this location is Suburban and it would become Urban Development Area. The next area

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is Southern Gateway. The area of expansion would run across Interstate 95 and south of Route 17/Warrenton Road to connect up with and include the area that's known as Rappahannock Landing. This is a vested subdivision for 700 dwelling units. And this area of expansion, which is hatched in, is 313 acres. The 700 dwelling units recommended in this area would all be multi-family. Additional public facilities would include the expansion of the existing park and ride lot by an additional 200 spaces. The George Washington Village Urban Development Area, this is proposed to expand to the north to Courthouse Road, and then to the north of Courthouse Road to include the lower portions of what is known as the Embrey Mill Project which is an approved planned development project. This and a lot of the residential development that is added into this area is what is already approved in this project, the 930 units. The mix of units is what's approved in those areas of Embrey Mill. The additional public facilities would include increase in the planned park and ride lot by 400 spaces and then adding a middle school and fire station that is actually already proffered in this area of Embrey Mill to the west of the extension of Mine Road, which is in this location.

Mr. Fields: Mr. Chairman?

Mr. Howard: Yes.

Mr. Fields: I have a question regarding the... the 930 is not the total of Embrey Mill; that's about 2,200 units as I recall.

Mr. Zuraf: Under the preliminary plan it was approved for 1,600 units.

Mr. Fields: So... well, when we did the rezoning in 2000 it was about 2,200, so their preliminary plan is 1,600. How was it decided to divide that property or what was the rationale of dividing the Embrey Mill property in and out of the UDA?

Mr. Zuraf: Well, in looking at the plan, you had a much more intense kind of town center in this lower area and, as you got up to the upper areas of Embrey Mill, it became... the densities didn't quite when you looked at that area... we looked at different areas of it and the densities didn't quite meet the UDA densities. And there's a little lower intensity as you got up to that upper area. Also you had more of a disconnect with this under their plan as a pretty wide kind of open space area that disconnects the two locations so...

Mr. Fields: When was that plan approved?

Mr. Zuraf: The?

Mr. Fields: The preliminary?

Mr. Zuraf: The preliminary was in 2006, I believe.

Mr. Harvey: I believe it was 2005 - 2006 timeframe.

Mr. Fields: Okay because obviously I am familiar with what we saw on the Board level on the rezoning side but I haven't seen that plan. Thanks.

Mr. Zuraf: Yes.

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Mr. Howard: Ms. Kirkman?

Ms. Kirkman: As a follow-up to that, although there may be lower density in some parts of it, what is the overall density for the Embrey Mill project?

Mr. Zuraf: Overall, I believe, is three units per acre.

Ms. Kirkman: Okay.

Mr. Zuraf: Then you got... that is why we were able to count this lower area because it definitely had more concentration of townhomes in this area, smaller single family detached lots in this location. And then you get to the upper end, the very northern part of the Embrey Mill project is definitely your typical suburban development when you look at the layout in that location. Okay, the next is the Centerport project, the Centerport UDA; the proposal here is to expand the UDA slightly to the east in the direction of interstate 95 but not quite all the way to 95. Here is this location would be up to Wyatt Lane beyond it between these UDA's and 95, there is a strip that was designated as Business Industry and then also the area would be expanded to the west to Hull's Chapel Road and Morewood Drive. In this location, this is actually an area where the UDA would expand out into what is currently an agricultural rural area so this is also... would be an expansion of the Urban Services Area (USA) in that location. The additional land would cover 216 acres, you have 520 dwelling units added, all single family detached in this location and an additional 256,000 square feet of commercial, additional public facilities would include an increased park and ride capacity of 400 spaces and adding an elementary school and fire station. Next would be Leeland Station UDA, this would expand on the east side of Leeland Road and also to the South from the intersection of Leeland and Primer House Road; this is the remaining, kind of, undeveloped portion of the Leeland Station development. This area covers 63 acres, the mix of units here would be the additional 250 units would include 50 townhomes and 200 single family units. No additional commercial or public facilities in this location.

Mr. Hirons: Mr. Chairman, I have a real quick question?

Mr. Howard: Yes.

Mr. Hirons: Mike, if you go a slide back.

Mr. Zuraf: Mm-hmm.

Mr. Hirons: Is the boundary on the east side of Leeland Road, the southern boundary, is that boundary of the Leeland Project? Does it include...

Mr. Zuraf: I believe it does include this church property here.

Mr. Hirons: Has there been any discussion with the church property?

Mr. Zuraf: No.

Mr. Hirons: Of them being included?

Mr. Zuraf: No.

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Mr. Hirons: Is that typical with an existing use to be included in there? I am just a little concerned on that, it might be good for them or it might be bad for them. I'm not sure, they might be able to mark their property and build a much bigger church somewhere else, I don't know.

Mr. Zuraf: Well, just thinking of the other areas like in Centreport, the UDA gets expanded to Hull's Chapel, there you are taking in some kind of more rural residential homes there actually and then George Washington Village. So it's kind of been done in other areas, George Washington Village going up to Courthouse Road, you are including some existing homes as well in that one. This is not unique I guess is the answer.

Mr. Hirons: Okay. I admittedly kind of missed that and it just now popped out to me that that parcel looks like its included so...

Mr. Zuraf: Yeah.

Mr. Hirons: Ummm... that was all. I just wanted to make sure it was clear that it was in there.

Mr. Zuraf: Okay. Now going to the Widewater area amendments, this changes the USA boundary to land use designation and some plan transportation improvements, this slide shows you some existing land use map and proposed map. Just like in Brooke, the current map and the formerly known as the Stafford Station UDA, when that was removed back in December from the proposed plan, that area became undesignated and then you did still have suburban land use and park land and that was... and planned improvements such as this roadway known as the Widewater Parkway and a VRE station that was all part of the plan and not specifically removed so that is still in the document. Through the amendments, the USA would be reduced in this area to refer back to this area boundary that was in place prior to the December amendments with the exception of Widewater Elementary School, I think that was discussed a lot in during the discussion in the last few months and that would remain in. The land use east of the proposed USA line would go to agricultural/rural with the exception of the Patowomeck County Park and the Widewater State Park. The transportation improvements being removed because the proposed commuter station, the roadway that was known as the Widewater Parkway and the... also within the transportation plans in Chapter 4, there was an unnamed kind of parallel road not shown on this map that extended down to the Widewater Parkway approximately in this area, that was removed as well from Chapter 4. At that point the staff would support the amendments to the textual document that entitled Stafford County Virginia Comprehensive Plan 2010-2030 and its accompanying land use map. The plan meets the criteria specified in the State Code regarding UDA's, you have received the Planning Commission resolutions that reflect either your recommendation for approval or your denial and you did also receive tonight written comments from Marine Corps Base Quantico on this proposal and I will answer any questions at this time.

Mr. Howard: Thank you. Are there any additional questions for Mr. Zuraf at this time? Hearing none...

Ms. Kirkman: Yes Mr. Chair?

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Ummm, Mr. Zuraf, fairly recently after the Board sent these amendments to us they passed a resolution placing 1,700 residential units in the Boswell's Corner Redevelopment area and

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sent to us an ordinance that allows residential density, I believe it was, 18 residential units per acre, which far exceeds the requirements for UDA. Do these amendments take into account in any way that there are another 1,700 residential units on the books in Boswell's Corner?

Mr. Zuraf: These amendments do not address that proposal.

Ms. Kirkman: So in order to meet the state mandate, we could something like remove the 870 units at Brooke and take out an 830 at Centreport, which totals 1,700, recognizing that 1,700 have been added to Boswell's Corner and still meet our numerical threshold for the UDA requirement, is that correct?

Mr. Zuraf: I would probably refer to legal whether they were deemed to be specific, I guess, language added into the document to reflect that Boswell's Corner would meet the... to state specifically that Boswell's Corner meets the UDA requirements. I don't know if you could just remove... I am just thinking out loud, whether you could remove the 1,700 units from somewhere else and just leave it at that.

Ms. Kirkman: Sure, I understand the technicalities the attorney may have to speak to but just in terms of the numbers, which there is a numerical target we have to meet. We have 1,700 units in Boswell's Corner that we did not have before.

Mr. Zuraf: Well, the recommended density...

Mr. Howard: Actually those units are not... the redevelopment, that is the redevelopment areas that Ms. Kirkman is referring to and I don't believe that that has been adopted yet.

Mr. Zuraf: Right, it hasn't yet and its, I guess, the land use plan designations in that area still recommend business and industries so there is kind of a little bit of conflict there as well.

Ms. Kirkman: But we... although that was certainly the Planning Commission, a majority of the Planning Commission recommended adoption of both that and the ordinance allowing the densities of up to 18 units per acre. But in addition to that, we have resolution R11-92 passed by a majority on the Board which states that amendments to the Comprehensive Plan for the Master Redevelopment Plan should include up to 1,700 residential dwelling units for the Boswell's Corner Redevelopment Area and that has been adopted by a majority on the Board. I knew staff could only answer to the numerical part of the equation, I think the attorney would, of course, have to answer the technical part of it.

Mr. Zuraf: Yeah, because you have a recommendation in the Redevelopment Plan that calls for 1,700 units, then you do have an ordinance that has these higher densities that definitely meet the UDA standards. I think I would definitely want to look into whether the plan itself has to state those densities in those areas. You know, the Code is one thing but whether the plan has to state it is my question, what I am thinking about.

Mr. Howard: Okay, thank you. Any other questions for staff?

Mr. Hiron: How much of Brooke is designated to be developed by way of TDR?

Mr. Zuraf: All of it is recommended as being through TDR.

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Mr. Hirons: And the County doesn't currently have a TDR ordinance, correct?

Mr. Zuraf: Correct.

Mr. Hirons: What happens if the County never adopts a TDR ordinance?

Mr. Zuraf: If the County never does?

Mr. Hirons: Right and we have the language in there that speaks to all of Brooke being developed by way of TDR. This may be a question for our lawyers too.

Mr. Zuraf: There may be some language regarding that.

Mr. Harvey: Mr. Chairman, I can answer a general question in that regard is the Comprehensive Plan is a guide and that would be a recommendation in the plan. The Board could abide by the recommendation or not. If we don't have an ordinance in place to allow TDR then that is a policy decision of the Board to whether they want to allow it to move forward... a proposal to move forward if it didn't have TDR as a component of it.

Mr. Howard: Thank you.

Mr. Zuraf: And there is specific language out of the last paragraph... well the first paragraph on page 3-40 that says "the Board of Supervisors may desire to adopt a Transfer of Development Rights program. Upon adoption of a Transfer of Development Rights Program, residential development associated with this UDA shall if possible be tied to the retiring of development rights for properties east of the CSX Railroad tracks with the southern boundaries being the Potomac Creek and the northern boundary being Aquia Creek". So it's kind of worded that right now it's not but if it's...

Mr. Hirons: There is a little word protection in there?

Mr. Zuraf: Yeah, so...

Mr. Hirons: A little follow-up question on TDR specific issue. As I understand it when a TDR... when a development right is moved from one place to another and the development is done through a TDR, you can't associate proffers with the development right, is that correct?

Mr. Harvey: Mr. Chairman, Mr. Hirons, I will answer that question. You are correct that in transferring development rights is a by-right matter so there is no zoning negotiation involved, there are no proffers. They may be subject to impact fees because that is applied to all development, all by-right development but they would not be subject to proffers.

Mr. Hirons: Okay. That is one of the risks that I see but I just wanted to make sure it was pointed out. Thank you.

Ms. Kirkman: Mr. Chair?

Mr. Howard: Ms. Kirkman?

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Ms. Kirkman: Perhaps Mr. Taves would like to comment but I believe this came up in previous discussions regarding UDA at Brooke and my understanding at that point was if the County does not have a TDR ordinance in place then the County cannot use the absence of TDR as a reason for denying a rezoning to carry out a UDA. In other words, if there is no TDR ordinance then there could be development of a UDA at Brooke without trading development rights.

Mr. Taves: Yes, I think that is how I answered that question previously and I answer it the same way today.

Mr. Howard: Mrs. Hazard? I thought you were reaching out, okay. We will now open up the public hearing where the public may come forward and address us on the public hearing that is underway at the moment, which is the amendment to the Stafford County Comprehensive Plan involving the Urban Development Areas as established to allocate the 4,000 dwelling units directed by the Board of Supervisors. Anyone wishing to address may do so by stepping forward now. I would just ask you to state your name and address and again when the green light goes on, you have three minutes, when the yellow lights goes on, you have about a minute left and when the red lights, we just ask that you let the next speaker address us.

Mr. Blaisdell: Mr. Chairman, members of the Planning Commission, my name is Preston Blaisdell. I wish to address specifically the Southern Gateway section of your amendment. I represent the Blaisdell Family, the owners of 180 acres called the Blaisdell Forge Track located on the Southern Gateway Urban Development Area, immediately east of the Old Forge Drive, the eastern boundary of your proposed amendment. We request the proposal of the eastern boundary, Old Forge Drive, be changed to include our properties. We request the proposed 700 unit addition multi-family units to be equally distributed to adjacent land, which is our property that we are speaking of. These changes would allow additional access and egress to lighten traffic congestion in this area. The inclusion of our property would also add flexibility for TND settings which are desired by the County with options for future growth and with that, I would thank you for your favorable consideration to my request.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission may do so by stepping forward to the podium.

Mr. Hundley: Good evening, Steve Hundley, Community Planning Liaison Officer for Quantico Marine Base. As Mike noted, Colonel Choike, Base Commander, sent a letter of support of these amendments today and I believe each of you has received a copy of that letter. The reason for his support is that the amendments direct and encourage future residential growth to be located away from Marine Corps Base Quantico active ranges, military operating areas and air space. Also, to note that it is consistent with Figure 3.5 in your Comprehensive Plan which is the Quantico Noise and Range Compatibility Zones. It is my pleasure to be able to come here every once and a while and say we support something. I will be glad to answer any questions you may have regarding that letter.

Mr. Howard: We did receive the letter electronically and also physically tonight, we appreciate that. Thank you.

Mr. Hundley: Thank you.

Mr. Howard: Thank you.

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Mr. Waldowski: Paul Waldowski. I want to clarify something for you all about condominiums, townhouses and single-family homes and I think the attorney can vouch for what I am about to say. Condominiums are under the horizontal property act which is under the now the Condominium Act and townhouses are vertical property under the Virginia Property Owners Act, just like single-family houses, they are vertical property. When you own a condominium as horizontal property, it usually has concrete floors, public stairways, a bunch of other entities that you need to consider and I would recommend to staff that you would look at that aspect as an addition to some of your presentations because horizontal property is indeed different than vertical property from a tax aspect. Now it is interesting that now we are going to wind up with seven UDA's. You know yesterday we wound up with seven election districts so this is going to be interesting to see where these all lay out from a political aspect. One of the things that really bothers me about election district and UDA's is we have this natural man made boundary called I-95 and then we have this thing called the Potomac. If you have watched what's happened the last 20 years, Aquia has basically broken apart and now election wise it is very interesting. As a matter of fact, Hartwood is going to be the Courthouse Area so welcome to a new UDA spanning across the eastern seaboard of I-95. Now as you all know, UDA's require transportation and public water and sewer and I know everyone is all enthused about Brooke Station because it has VRE, which you have heard me tell you about. It is the very rotten experience but remember that UDA was to live, play and to work, not to commute to work but to work. We keep bringing up park and rides so we can bring 1,000 more spaces that Spotsylvania and Fredericksburg can use. And I will conclude that this week is the first time arriving at a commuter lot in Stafford County before 7:00 p.m. and I was not able to find a parking spot. So, as planners please keep in mind the vertical parking garages that will also enhance your Urban Development Areas, which you know I call Urban Downtown Areas. Thank you.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission may do so by stepping forward. Okay.

Mr. Blaisdell: My name is Barnum Blaisdell. I just wanted to comment on one this Preston did talk about the traveling, the ease of traffic. My portion of that property has the water and the sewer, that is one of the things the concerns Ms. Kirkman had about Brooke, she doesn't have it. We've got it, it's already there. So we came up here and had to fight to get put into the USA which we finally, with the help of Mr. Snellings, we did get added to that. So the water and sewer is there so take that into consideration too.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission may do so by stepping forward to the podium. Seeing no one else advancing towards the podium I will now close the public hearing on the Amendments to the Stafford County Comprehensive Plan and bring it back to the Planning Commission. Any discussion from the Commissioners?

Mr. Fields: We need a motion, don't we?

Mr. Howard: Typically that is the way that works someone would make a motion. I know how you all are contemplating who is going to make the first move.

Mr. Hirons: Mr. Chairman?

Mr. Howard: Mr. Hirons.

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Mr. Hirons: I am not finding... I apologize, I am not finding the prepared resolutions that I believe are prepared resolutions for us. Regardless, I am seeking to move forward... or move the Resolution recommending approval of the UDA proposals as they are presented to us, as Mr. Zuraf presented to us.

Mr. Howard: Is there a second?

Mr. Hirons: Is it PCR11-08, is that the correct one?

Mr. Harvey: Mr. Chairman, for the Commission's information, those are sort of in the middle of your action item for tonight.

Mr. Rhodes: Second.

Mr. Howard: So a motion has been made to move forward PCR11-08. Seconded by Mr. Rhodes; is there any discussion?

Mr. Fields: Mr. Howard, I have a substitute motion.

Mr. Howard: Yes Mr. Fields?

Mr. Fields: And I will discuss it if I get a... I will explain it in detail if I get a second but...

Mr. Howard: Certainly.

Mr. Fields: My substitute motion is to... is for 11-08 but with the following substitution that the 870 units from Brooke and 874 units from Centreport... the Brooke UDA, all 870 be eliminated and 874 from Centreport be placed in a UDA at Boswell's Corner.

Ms. Kirkman: I will second that.

Mr. Howard: Okay.

Mr. Fields: My rationale is that though we still have a... it is still technically in play, it seems very clear that the Board of supervisors has indicated a fairly strong and accurate desire to, on their part, to have another 1,000 units added to... and the reason I went to those numbers is my recollection and, believe me, I could be corrected is there were 744 vested units in the Boswell's Corner area. So 1,000... 1,744, 870 and 874 or where those numbers come from... the purpose of the UDA, the Boswell's Corner area has always vastly suited the purpose and the intent of the UDA at least as I see it and how I have seen it evolve, the concept over the years. Then either Centreport or Brooke and if we are going to have those units there, they should count towards the UDA total. I have never supported this vast number of UDA's that tend to be, while maybe a better version of suburban sprawls, still essentially suburban sprawl, I've always felt that since the UDA's are... important to remember, the numbers of the UDA's are being required for us to add, essentially, on top of enormous amount of vested zoning that exists already so this is not like we are out of available zoning and this... The next 10 years... we need to plan for these but we certainly don't need to be so proactive and so vacillatory in putting these... making these the most buildable, desirable things in the world because we've already got a lot of zoning. The UDA's were an opportunity to collocate jobs and people, which

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is truly by all measures when you grill down to what is sustainable development? It is people living and working, working real jobs, living wage jobs in the same place. Boswell's Corner has that opportunity, with all due respect to the Marine Corps and all of their concerns which we always respect but since we've articulated or at least a portion of the Board and Planning Commission articulated that we can still contemplate more units up in Boswell's Corner, that should count toward the UDA total and certainly these UDA's like Brooke, which are not sustainable and poorly conceived because they exist completely outside the UDA. The Centreport and George Washington Village, which are still primarily single-family homes, which are really what we need more of... that this would be a better solution and it should, if we are going to put in 1,000 units there, the total should count towards the UDA. Thank you.

Mr. Howard: Ms. Kirkman, you have the second comment because you seconded the motion.

Ms. Kirkman: Yes Mr. Chair, I supported the motion because quite clearly... you know if it has residential density of a UDA, if it has the number of units to meet the UDA, it is a UDA and the Board has already, through a resolution, made clear its intent to have a residential development up in Boswell's Corner with densities up to 18 units per acre, which meets the UDA requirement. Given that, we should use those, at least 1,700 units at Boswell's Corner to meet the numerical threshold. Given that, we have at least 1,700 units we could pull off somewhere else. Clearly Brooke station is the UDA that stands out and mind you the Board got a unanimous vote in the original Comprehensive Plan by removing Brooke so I really see this as part of keeping the promise that was made to reach that consensus to remove the Brooke UDA, it doesn't make sense, there is no sewer and water, it's in the middle of an agricultural area, it's on two-lane country roads and you want to put up to 10,000 cars a day, it's absurd. That is why I supported the motion.

Mr. Howard: Thank you. Any other comments from Commissioners? No? We've been through this conversation many times and as always I appreciate when everyone is being respectful and I think that is the case tonight and I am grateful that we're working through this. I won't support the motion, I totally understand the comments. However, the Urban Development Areas, the origin of the Urban Development Areas really started in Richmond and when we went before Richmond as a County and presented the Urban Development Areas that had been worked on, those who created and adopted the UDA language in the State Code thought that Stafford County, not only did they think we were on track but they thought it was a model way of thinking through the process. We did try to leverage the railroad stations and we did try to leverage alternative modes of transportation because we don't have a good road network, infrastructure in the County to allow, whether you are just living, working and playing in a certain area and then decide you want to travel to Washington D.C. to see a play, become a tourist, see some of the wonderful museums and sites that we have up there or head down to Richmond. You don't have a different way to do that other than 95 or Route 1 so that was a focus. Brooke Station through lots of different gyrations, I think everyone knows is the sole remaining new UDA in terms of being in close proximity to a railroad station. Well, Leeland Station is also part of that. The Brooke Station area has a lot more opportunity in terms of acreage that could be built new. Redevelopment Areas are also assigned and designated as you heard and it is much more difficult to redevelop an area then it is to go in and create a new area. You know, it is my hope and desire, if you have been down to Spotsylvania, you've been behind the mall that you see a lot of that type of development in terms of the shops and restaurants coming to Stafford in different locations within these UDA's as well as wonderful places to live whether they are condominiums, townhomes or single-family dwellings that are affordable, reachable and also have commercial properties adjoining them so there are more jobs and places where people can work, live and play. Again, I respect the

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comments, I understand them but I can't support a motion. I would like to see the D-day process move forward. While we are in discussion, could we see the Blaisdell property, is there a way to bring that up on the computer?

Mrs. Bullington: Computer please?

Mr. Howard: Which tract is this? Is it where the mouse is? Okay. So it is where that little zoom mouse is sitting.

Mr. Fields: I see multiple tracts.

Mr. Howard: Okay, I forget why that... I don't have any recollection of discussions on that. I know they have been here before asking about different tracts but I am not sure that...

Mr. Fields: Mr. Chairman, I can certainly offer some clarification if you would like.

Mr. Howard: Sure.

Mr. Fields: It is a property that has been, that is George Washington District and I have known the Blaisdells for many years. It is a property that has been in discussion for development, it actually had a fairly substantial development proposal on it just a few years back, connecting and interacting with the Rappahannock Property if I am recalling that correctly. It essentially became... the idea is it essentially, you know, it is very logical Rappahannock Landing property, that development... you have Old Forge in front, which is townhouses and Rappahannock Landing, which will be townhouses and then the Blaisdell Property, which is proposed as I thought a very nice mixed use property. Also, significantly I would point out for the value of the County in general, there is something very... they are being somewhat modest in that on this property also is the site of Hunter's Iron works, which was the source of the essentially it played a part of the... huge role in the Revolutionary War, huge role in Falmouth in the Revolutionary War. So that property is to some degree, they have been stewards of that and the development of that property needs to include the destiny of that property, which of course they have always been willing to do. I would certainly consider that as an option and I would consider though as an option to expand it as an option to Brooke is another option where you could find those units. I don't think you would want to add it there but you could add it there. It is a far more logical place for 870 units and UDA style development then Brooke Station is; I can guarantee you that. It's on Route 1 right between... I mean it is on Route 17 between Route 1 and 95. It allows... ultimately it allows the destiny of that whole area to redevelop and develop in a cohesive manner. It is certainly a logical request and a logical extension, since the water and sewer area has been expanded there.

Mr. Rhodes: Where is the water and sewer right now? Which...

Mr. Fields: I think... is it the red line there?

Mr. Harvey: The red line is the Urban Service Area boundary.

Mr. Fields: Right.

Mr. Harvey: There is sewer and water in the area of Old Forge neighborhood.

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Mr. Fields: But it is all the properties now in the Urban Service Area boundary though, right?

Mr. Harvey: They will ultimately be served, yes.

Mr. Fields: Yeah. There had been some... we'd had some disagreements, to be honest, with Blaisdell, apparently on principle, the USA's, I always held that A-1 zoned should be excluded. It is a matter of principle not a matter of suitability of the site for future development. Now that it is in the Urban Services Area, that is de facto like I say, this is a far more suitable area for UDA style development than most of the other UDA's. As far as living and working, employment centers, certainly the Courthouse and Boswell's Corner are by far the best. If you are going to get into the areas that have less of a capacity for employment centers, these ones down here that are proximal to the City of Fredericksburg make a lot more sense. Essentially, you know, this part of the County we are talking about what becomes a de facto, large urban area when you include the City of Fredericksburg and the Southern portion of Stafford but with a unique characteristic of being able to... if you look at Hunter's Iron Works on the edge, you kind of complete this ultimate trail of history that starts at Hunter's Iron Works and works all the way over to Ferry Farm. Iron Works is sort of down here, it is in the southeast corner of the property, right? Am I getting that right? Yeah.

Mr. Howard: Okay, thank you.

Mr. Fields: I didn't mean to go on but I have had a lot of information.

Mr. Howard: No, that was helpful.

Mr. Fields: I've talked about the property and I've walked it, looked at it many times.

Mr. Howard: Right. Are there any other comments? Hearing none I'll now call for the vote on the substitute motion as articulated by Mr. Fields and seconded by Ms. Kirkman. All those in favor of the substitute motion signify by saying aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Opposed nay?

Mrs. Hazard: Nay.

Mr. Rhodes: Nay.

Mr. Hirons: Nay.

Mr. Howard: Nay. Motion does not carry, it's 4 to 2.

Mr. Fields: Is it possible to make a second substitute motion then?

Mr. Howard: You can make up to two.

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Mr. Fields: Two. My second substitute motion then would be to recommend moving forward with removing the Brooke UDA and placing the 870 units in the expanding the Southern Gateway to include the Blaisdell property and placing the 870 units there.

Ms. Kirkman: I will second.

Mr. Howard: Discussion?

Mr. Fields: Oh... I'm sorry I feel like I just ran on and on about it so I don't want to reiterate myself.

Mr. Howard: It was actually very good.

Mr. Fields: I think I articulated clearly what my motivation is.

Mr. Howard: You always do.

Ms. Kirkman: I seconded, I think it is less an ideal but I think it is certainly better to have those units in an area that is already within the USA than in an area that is completely agriculture outside of the USA.

Mr. Rhodes: Mr. Chairman?

Mr. Howard: Yes Mr. Rhodes?

Mr. Rhodes: Actually if Mr. Fields had not been hogging up all the substitute motions... actually I was more inclined to...

Mr. Howard: Well, he can make up to two.

Mr. Rhodes: Yeah. I will just state that I was actually more inclined towards putting that again where the workforce and work opportunities would be, which would be into the Courthouse area, those units. And I believe we had a discussion a couple iterations ago where we actually took a portion out of the Centreport, about 600 units, and put those into the Southern Gateway, which takes it from the more industrial and other opportunity area... less residential I think in Centreport and put those down there and that would have been my variation. I think those two combinations of modifications would be a more effective balance than just the one of moving them from Brooke to the Southern Gateway, because we'd be able to complement the work force work opportunity a little bit better by putting the larger number of units up into the Courthouse and still have a shift of the 600 from Centreport, again more industrial more... less residential based and use that to supplement down into the Southern Gateway. And that would be a modification I would be more in support of than the current substitute motion. Thank you Mr. Chairman.

Ms. Kirkman: Mr. Chair?

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Does my colleague have a friendly amendment that he would like to pose to the substitute motion?

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Mr. Rhodes: I've made my statement and we can do what we do.

Mr. Fields: You could take... you could still take them out of Centreport and put them in the Courthouse and do this if you're concerned about it.

Mr. Rhodes: I think the larger number probably fits better in Courthouse. That is the greater opportunity. We already have...

Mr. Fields: Okay.

Mr. Rhodes: ... 3,176 there in Southern Gateway, 2,256 in Courthouse. I think the greater benefit is the larger number up to the Courthouse area.

Ms. Kirkman: I was trying to follow all of my colleague's comments. Is my colleague suggesting there be movement of units from Centreport to Courthouse as well as movement of units from Brooke down to the Blaisdell property? I am trying to follow the moving parts in your comment.

Mr. Rhodes: If I ever get to my substitute motion it would be if this does not pass it would be one that takes the 870, the larger number from Brooke, which has great longer term potential. And I think there are tremendous desires and intent associated with the Brooke, quite frankly. But there is a lot of things to be put into place. I think it is an opportunity that may be five years down the road or as other TDR as other evolutions occur as we see what happens in this county. So right now I don't know that it is the time. So I would take that larger number and I think apply those in its distribution of units, residential dwelling units by multi-family, townhouse and single-family and I would apply those up in the Courthouse area where I think there is great potential from an employment perspective and take that larger number and apply those and match those with the 22... the 1,386 that are currently in the current proposal. They are sitting in there and then I would probably take a lesser number, we once talked about 600 but some other number and pull them from Centreport where we have got a lot of residential units applied and that is what I would slide down, I think in and maximize the leverage greater the Southern Gateway opportunities that were discussed.

Ms. Kirkman: Thank you for that clarification.

Mr. Howard: Did you catch all of that Ms. Kirkman?

Ms. Kirkman: So just as a point of order, I believe we can continue making substitute motions until there are no more motions to be made, is that correct Mr. Chair?

Mr. Howard: I believe just that there is a limit to the number that an individual can make, but I believe you are correct.

Ms. Kirkman: Thank you.

Mr. Howard: Are there any other comments? Just as... continuing on Ms. Kirkman's point of order, there are... you can actually amend by inserting or striking out words or paragraph or substituting whole paragraphs in resolution.

Mr. Rhodes: But I was a single comment so I would not drive that at this point.

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Mr. Howard: Alright, any other questions? Comments? I will call for the vote. So Mr. Fields, would you restate the motion?

Mr. Fields: Sure, the motion is to move for the approval of PCR11-08 with the following amendment. That the 870 residential units from the Brooke UDA be eliminated and those 870 residential units be places on the Blaisdell property which will be an extension of the Southern Gateway UDA.

Mr. Howard: So Mr. Taves do we have that correct so he is making a substitute motion really to approve PCR11-08 with the following changes that he articulated. Is that how you are understanding it?

Mr. Taves: That is how I understand his motion, yes.

Mr. Howard: Alright, and it was seconded by Ms. Kirkman. Ms. Kirkman, that's your understanding as the seconder?

Ms. Kirkman: That is correct.

Mr. Howard: Okay, great. Okay I will now call for the vote. All those in favor of the substitute motion signify by saying aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Opposed nay?

Mrs. Hazard: Nay.

Mr. Rhodes: Nay.

Mr. Hirons: Nay.

Mr. Howard: Nay. Alright, so...

Mr. Rhodes: Other than me voting twice. I am sorry nay.

Mr. Howard: Well I will poll. Mr. Fields?

Mr. Fields: Aye.

Mr. Howard: Mrs. Hazard?

Mrs. Hazard: Nay.

Mr. Howard: Mr. Rhodes?

Mr. Rhodes: Nay.

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Mr. Howard: Mr. Howard was nay. Ms. Kirkman?

Ms. Kirkman: Aye.

Mr. Howard: And Mr. Hirons?

Mr. Hirons: Nay.

Mr. Howard: Alright, so now we are back to the original motion, which was the main motion in this case.

Mr. Rhodes: Mr. Chairman, I would like to make a substitute motion. And this was not intended to be obstinate Mr. Fields. I was not sure where everybody else stood so I was not ready to throw it in at the time as an amendment. But as I commented before the substitute motion would be to... based on the Resolution 11-08, it would be to modify it such that the current unit... residential unit...residential dwelling unit distribution that is currently postured for Brooke Station would be added to that at the Courthouse area and then in addition 600 dwelling units of which 300 would be multi-family and 300 would be townhouse that are currently at Centreport would be reduced from there and added to Southern Gateway. Then I assume that the tract in the outline in the Southern Gateway as Mr. Fields had strongly endorsed would be appropriate for the Blaisdell Tract. I do not know that area and I do not know the appropriateness, but knowing Mr. Fields' great strength there I would add that as that portion of it. That would be the motion Mr. Chairman.

Mrs. Hazard: Second.

Mr. Howard: Discussion?

Mr. Rhodes: Yes Mr. Chairman, as I mentioned before but I will just reinforce a little further. I think that there is great genuine strong intent with the Brooke Station proposal of a UDA and it probably has great potential at a later point. Right now with the water and sewer not being pressed out there right now with the way we are in this County with roads and other development and right now without the TDR structure being in place I do not believe it is the appropriate time. And it is something we certainly need to look at in the future. But for right now I think the better distribution of leveraging the tremendous potential that I believe exist for the Courthouse Area for the employment based UDA and then pulling some from Centreport which is proposed with a large number of residential units around that area. I think a greater distribution and taking advantage of the things articulated by Mr. Fields with the Southern Gateway UDA just is a better opportunity at this juncture in our County. Thank you Mr. Chairman.

Mr. Howard: Mrs. Hazard?

Mrs. Hazard: Clearly I agree with the analysis made by my colleague. I would also like to indicate that the... I too believe that we need to come up with alternatives regarding traffic and I think we have to remain mindful as a county to look at alternatives and I would not want any vote regarding Brooke to be seen as philosophy of the County not to explore rail options. However, I believe as raised by many of my other colleagues at this point in time with the constraints that we currently have I believe that Brooke is one that we will need to reconsider over time as the county develops. I do support the moving of the lesser number of the 600 as detailed there to the Southern Gateway and agree with the

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extension to the Blaisdell property as that is found on the county maps, which I am sure that we can determine from here. And also just in general all the hard work that has gone into this I think that we also need to be moving this forward so we can start planning. Thank you.

Mr. Howard: Any other comments?

Ms. Kirkman: Yes Mr. Chair?

Mr. Howard: Yes Ms. Kirkman?

Ms. Kirkman: I wonder if the motion maker could refer to page 8 of 11 in our packet which has the diagram for Centreport in the table. And if he would consider this particular proposal had added 520 units to what was approved in December.

Mr. Rhodes: I am nowhere near where you are at, sorry.

Ms. Kirkman: Okay.

Mr. Rhodes: Okay, thank you.

Ms. Kirkman: This proposed amendment had added an additional 520 units to Centerport and done so by expanding the UDA to include those hatched areas. I was wondering if you would consider amending your motion to reduce it from 600 to 520 and reducing... and going back to the original boundaries of the UDA just for simplicity sake, because we have to do something around the boundary.

Mr. Howard: I think there was an issue with where one of the roads was on that.

Mr. Rhodes: Yes, there was a particular... as I recall there...

Ms. Kirkman: Okay.

Mr. Rhodes: ... was a particular add by the Commissioner from the Hartwood District for that portion that was added near Hulls Chapel Road to make it not be confusing and to use the natural boundary of the roadway associated and I would not necessarily be inclined to go against her efforts.

Ms. Kirkman: So just to clarify although the number of units would be reduced the expanded boundaries would still be part of the amendment.

Mr. Rhodes: That was part of my modification. Yes ma'am.

Ms. Kirkman: Okay thank you.

Mr. Howard: Any other questions, comments? Mr. Zuraf you have a comment?

Mr. Zuraf: For clarification I don't know if the boundaries of Courthouse were discussed. Would that include... back when the Planning Commission discussed this there was a consideration of expanding the Urban Development Area when that was considered and I just don't know if that is part of this.

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Mr. Rhodes: That is a great comment. There was a... and I am trying to remember this. There was a portion to the west side of Route 1 that extended further down.

Mr. Zuraf: It went to the west of 1 around to Courthouse.

Ms. Kirkman: But doesn't... if you refer to page 5 this amendment does expand the boundaries of the Courthouse UDA.

Mr. Howard: Yes, I thought that had occurred.

Mr. Rhodes: On the east side of Route 1. I would... it would be beneficial to remind... if we could get a reminder from staff what the logic was on the west portion. Was it just a limitation of land and acreage?

Mr. Zuraf: It was for the... to accommodate... designate enough area to accommodate the additional...

Mr. Rhodes: Another 900 units, right?

Mr. Zuraf: The previous... the version that the Commission considered had the expansion to the west of Route 1.

Mr. Rhodes: Yes. And if I... I apologize I don't know exactly or recall but I think it was a concern about the acreage that was available previously being able to accommodate, was that?

Mr. Zuraf: Yes.

Mr. Rhodes: Then with the boundaries as they exist on page 322 of our current proposed package, would that raise staff concerns then if 870 units... additional units are added to that UDA?

Mr. Howard: In terms of the boundaries?

Mr. Rhodes: The scope? Yes given these existing boundaries as presented on page 322 of our package?

Mr. Zuraf: Yes. The same mix of units that would make it difficult to actually happen.

Mr. Rhodes: Got ya. Okay. Thank you for that.

Mr. Zuraf: You would have to increase the... to more condominiums, more townhomes.

Mr. Rhodes: Thank you very much for that catch, Mr. Zuraf. I would... if allowed, Mr. Chairman, I would like to modify and add to my substitute motion. The addition to the Courthouse Road UDA boundaries that were presented on the Comprehensive Plan draft proposed amendments March 2, 2011 as annotated stating amendments with Planning Commission modifications that were on that package as page 322 as well. That would be the one additional add to my substitute motion Mr. Chairman.

Mr. Howard: Does the seconder...

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Mrs. Hazard: Yes, I agree with that.

Mr. Howard: In Robert's Rules because I have not called the question that is actually permitted where the motion maker can modify the motion.

Ms. Kirkman: And Mr. Chair, there are actually is another modification the motion maker may wish to consider. If you remove the UDA from Brooke that leave that land area undesignated.

Mr. Rhodes: Yes.

Ms. Kirkman: So I believe it needs to be designated consistent with the remaining are which is agricultural. And there is a little piece there where the store is, right? That is rural commercial.

Mr. Zuraf: Not any more.

Ms. Kirkman: Not any more, it is all agricultural.

Mr. Rhodes: I think it was all going to agricultural/rural.

Ms. Kirkman: Right.

Mr. Howard: So you are adding in the retraction of the...

Mr. Rhodes: Yes, if I might Mr. Chairman.

Mr. Howard: Alright. Secunder agree?

Mrs. Hazard: I agree.

Mr. Howard: Any other discussion? Just my comments before I call the question.

Ms. Kirkman: Could I... I just want to clarify that I understand what the third substitute motion does, which is my understanding that it does the following. It removes the 870 units from the Brooke UDA and designates that land use as agricultural. It takes and moves those into the Courthouse UDA and expands the boundaries of the Courthouse UDA. And then finally it takes six... retains the proposed boundaries of the Centreport UDA but takes 600 residential units out of that and moves them down to Southern Gateway and expands the boundaries of the Southern Gateway UDA to include the Blaisdell Tract.

Mr. Rhodes: That is correct. And that last statement, just to clarify, it removes from Centreport 300 multi-family and 300 townhouse and that is what is moved to the Southern Gateway.

Mr. Howard: Okay my comments would be as follows. I cannot abandon mass transit. I don't know how you have urban development areas without having mass transportation involved in them. So I will not support the motion. I understand the motion. I absolutely want to support the Blaisdell Tract being included in the Southern Gateway, however the way the motion has been discussed it is not something that I can vote for to support, just so you understand. I understand everyone's comments and concerns. I get all that. At the end of the day we have a tremendous resource that runs through

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Stafford County and it is called the VRE. It is called CSX rails, I did not put them there, I don't know who put them there but they are there. There is discussion that a third rail will come through within the next five to ten years. And this is a long range plan. We have to keep in mind that the Comprehensive Plan is a long range 10 to 20 year envision plan of the county. And I will just state for the record to not include a mass transportation component in today's day and age, there is a whole host of reasons why we should do it; everything from going green to the fact that we can't even handle the current traffic with our road infrastructure. So I understand though what everyone is trying to accomplish and those are my comments. I will now call for the question. All those in favor of the amended motion signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Opposed nay?

Mr. Hirons: Nay.

Mr. Howard: Nay. So the motion carries 4 to 2. Thank you. We are now on to... item 7 would be moved to unfinished business. We can go back to item 7 and Mr. Hirons that is in your magisterial district you can make a motion to do whatever you would like at this point.

Mr. Hirons: Yes Mr. Chairman. I appreciate the applicant being able to stick around. I warned you to bring your pillow. So hopefully you did that. I do want to make a motion to recommend approval of the Cambridge Properties as presented with the proffers that were presented.

Mr. Rhodes: Second.

Mr. Howard: Discussion?

Mr. Hirons: I just want to say this isn't the best situation that we have been in. It is not the world's greatest application. However we are only at this point of having these... being able to have this discussion because of one somewhat outdated proffer related to Knight of Columbus operating on that location. So we have had a lot of opportunity to have discussion with this applicant and most certainly make him aware of our issues and concerns. He is a small business man as a representative of the Government. My intention is to try to stay out of business way as much as possible. I am hoping he understands where we are coming from, understands our issues, but at the appropriate time we get out of his way and let him go about his business and operate his business as he deems fit. I think we have gone a long ways and we have gotten a lot of... we have gotten some good things out of this so with that I am looking forward to this motion moving forward.

Mr. Howard: Thank you. Mr. Rhodes?

Mr. Rhodes: Yes Mr. Chairman.

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Mr. Howard: You have the second...

Mr. Rhodes: Okay. Mr. Chairman I would just share that...

Mr. Howard: Mr. Taves, thank you.

Mr. Rhodes: It is a... I see it as an opportunity to improve and utilize something that is not being utilized. It is an opportunity with the potential sometime in the future for another 10,000 square foot facility being developed that will just only further improve on our... quite frankly it is on a main thoroughfare if we have a main thoroughfare that is Route 1 and that is the main thoroughfare that we have. We have no... sorry we have no better thoroughfare hardly in the county.

Mr. Howard: North and south.

Mr. Rhodes: North and south, thank you. But it is not trying to... I don't think they are trying to figure out how to be creative to skirt anything. They tried to use the highest potential use that might potentially possibly exist on the existing one to show that even that does not pass the threshold. That is not necessarily the use they are looking for and they are willing to try and work their methods to insure they provide no greater burden on the area than would exist. And I think they are just trying to be very forward in finding a development and another commercial and business opportunity. That is why I seconded and that is why I will support. Thank you Mr. Chairman.

Mr. Howard: Any other comments? Mrs. Hazard.

Mrs. Hazard: I guess my general comment too is it had a proffer amendment like Mr. Hirons has stated about the Knights of Columbus and we would like this to be a usable business space. I will just say in general about the phasing of at least two applications, thankfully in the Falmouth district. But I see that as something that we are going to be grappling with going forward and I would hope at some point either a work session or something that we can use to deal with the phasing issues going forward regarding transportation since I don't believe this will be the last one. But let's hope they all will still remain in the Falmouth district.

Mr. Howard: Okay. Ms. Kirkman?

Ms. Kirkman: Mr. Chair, I am going to oppose the motion. I think the applicant has done the best they can, given how they were directed by staff, but we do have an important requirement in our County ordinance regarding applications. And it does state very clearly in there with a threshold of 500 there is a county requirement with at least some assessment of the current conditions and the current capacity of the existing roadway network. And I don't think that we are in a position to without a process, waive that requirement for some applicants and not for others. So while I support the application on principle, I cannot support the motion because the application from my perspective is incomplete because it did not include the required assessment of the current roadway network capacity.

Mr. Howard: Thank you.

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Mr. Smith: Mr. Chairman, if I might mention something for the Commissions consideration. Under its by-laws, no written material that is presented to the Commission for the first time at a meeting shall be voted upon unless the Commission, by two-thirds vote of the present, accepts it.

Mr. Howard: Thank you. So what that means is we would have to have a two-thirds vote in order to carry Mr. Hirons motion? Or would we have to vote on whether we are accepting the written material first?

Mr. Smith: I think, Mr. Chairman, that either it could be done independently or as part of the motion; in this case to recommend approval but you could also...

Mr. Howard: Right. So Mr. Hirons, since I have not called the question you have an opportunity to modify your motion if the seconder agrees with that. Or you can withdraw your motion and then make a new motion.

Mr. Hirons: I think in the interest of time I believe I will do it in one motion to accept the newly provided written material as well as recommend approval of the project.

Mr. Rhodes: Second.

Mr. Howard: That was agreed to so now those are both on the table. Mr. Fields you have not had any discussion yet. Are there any comments?

Mr. Fields: I tend to agree with Ms. Kirkman. I think the project is great, I wish them the best of luck. I think I don't want to stand in the way of small business and I don't want to stand in the way of redevelopment. Unfortunately the one thing where I think we have to be vigilant is the traffic impacts. Because that is the thing that carries over, over time and like I said at the last meeting that's our only bite of the apple to address that. So it is very reluctantly that I don't support the motion, but I feel for me as a matter of principal that the traffic situation should have been handled better. Like I said I don't... like Ms. Kirkman, I think it is a good... the project is fine, just the process is flawed.

Mr. Howard: Okay thank you. I have not had a comment yet. I wanted to see a traffic light. But I recognize that we are not going to see that in this procedure. I don't believe in... I think if there is a wetlands issue or some other RPA issue, which we have had come before us before for a small business, that to me sort of trumps some of what we are talking about there. But I think... I don't know if it was bad information and I am not sure what happened, but I also think some of it is interpretation of the code. I also do recognize Mr. Harvey's comments that in the past applicants have been handled in a very similar way here in Stafford County. I will support this and I am not going to stand in the way of small business but for the record I would like to see more traffic information in the future because Route 1 is a major corridor and I drove by this business yesterday and spoke to Mr. Hirons about it as a matter of fact. And it is a busy section of Route 1 at time and it will become a little busier because you are going to be luring more people in. But at the end of the day it's probably the right thing to do with the land that is there. It's on Route 1, we are looking for commercial development there and it certainly makes sense. I also don't see a ton of residents here either night that are speaking against it typically for the development. You have made some concessions as far as the right in/right out. You are adding the turn lane and I appreciate all that I just wish we were getting a traffic light. But we are not and I will support it. I will call for the vote. All those in favor of the motion signify by saying aye.

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Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay?

Mr. Fields: Nay.

Ms. Kirkman: Nay.

Mr. Howard: The motion carries 4 to 2. What is the math on that? That's two-thirds of the people present.

Mr. Rhodes: Now we are back to five.

Mr. Howard: Yes we are. Wetland Mitigation Bank. Thank you

5. ***Wetland Mitigation Bank (Time Limit: July 4, 2011) (Deferred at April 20, 2011 Meeting to May 4, 2011 Meeting)***
(Authorize for Public Hearing by: May 18, 2011)
(Potential Public Hearing Date: June 15, 2011)

Mr. Harvey: Thank you Mr. Chairman. At your last meeting, the Commission requested staff to consider modifying the ordinance to allow wetlands mitigation banks in your A-2 zoning classification and that's been done in proposed Ordinance O11-26. Also, we, at your request, checked into the issue of whether Crow's Nest Natural Area Preserve could qualify as a wetlands mitigation bank. Based on our input we've gotten from the Army Corps of Engineers it could not because of some technical reasons. A wetlands bank typically require new wetlands to be created and much of that area is not conducive for creating new wetlands. So, staff also checked in with the Commissioner or Revenues office and they didn't see anything in this ordinance that would directly impact assessments of properties on a county-wide basis. So staff would ask for direction from the Commission for any further modification to the ordinance or direction as to whether to schedule this for public hearing.

Mr. Howard: Mr. Harvey, can you just... I know we talked about this at great length... and the one question I have, and I was looking through my notes today and I didn't find it, what other municipalities have this wetland bank? You mentioned it and I thought I wrote it down but I did not. I was going to try and look at that and do some homework but I didn't get a chance. What other municipalities have adopted the wetland mitigation bank?

Mr. Harvey: My recollection was we found that they were permitted in Prince William, Fauquier, Loudoun, as well as in Spotsylvania counties. My recollection was that Spotsylvania required a conditional use permit and the other localities made it as a by-right use, similar to agricultural activities.

Mr. Howard: Okay, good. Thank you, that helps. Have you had any discussion with their experience with this? I know it's fairly new.

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Mr. Harvey: We've had discussions with a company that's proposing a wetlands mitigation bank in the County. We've also had discussions through county projects where we've had to buy wetlands credits, some of which have been in a mitigation bank type of setting but not exactly a mitigation bank. We were buying credits from another landowner. But generally speaking, from what I understand is that they are becoming more and more common throughout the Commonwealth. And, from a County policy perspective, we would like to see wetlands preserved in the County for impacts to wetlands in the County, so this gives us the opportunity to do so. Right now we don't have that opportunity.

Ms. Kirkman: Just to clarify, this does not preserve wetlands. That's my understanding which I didn't understand going into this which there's this really kind of perverse incentive that destroyed wetlands can be used for a wetlands mitigation bank, but not pristine wetlands. So it doesn't really preserve them; it creates additional wetlands, but it doesn't preserve existing, correct?

Mr. Harvey: But generally, from what I understand, it takes wetlands that have been impacted through agricultural or development and through a process of reconstructing the streams or areas to make more wetlands. They expand the wetland capability of that area and then a conservation easement is (inaudible).

Mr. Howard: That question came up last time and I believe it was answered the way Ms. Kirkman just stated it. When I reread this though, this is what it says; wetland mitigation bank. A wetland mitigation bank is a wetland area that has been restored, established, enhanced or preserved. So, I thought what you thought two meetings ago, or the last meeting. But then when I reread this, it almost says, and I understand why you know parts of Crow's Nest... it's already in a pristine condition which is the answer that we had two weeks ago that it would be difficult for that to qualify because it's in a really, really pristine condition today and the likelihood of creating new wetlands or restoring any of that didn't seem possible or viable. But when you read this, it does... to me it's a little different than what we were told, which is where I think Ms. Kirkman was at. So I'm not sure I understand it. So, I don't know if we need clarification; maybe we'll wait till the next meeting. But I would like to understand, you know, how is this being interpreted and/or defined; restored, established, enhanced or preserved, because those are all very different.

Ms. Kirkman: Mr. Chair?

Mr. Howard: Ms. Kirkman.

Ms. Kirkman: The only way I could make sense of that once I got this understanding of this almost like I said perverse logic of this process was that once it's been destroyed and then you get money to restore it, you then have to preserve the restored wetland.

Mr. Howard: Okay. We need to understand that because... I mean, we shouldn't be rewarding people who haven't done the right thing, so, if that in fact is what this turns out to be. However, it would be nice, when we do have wetland areas that have been destroyed, if there's a way to restore them. Right, you want to be able to do both; which I thought this wording does that. But Mr. Smith, maybe we can get some... you know, what's the spirit or the interpretation of those four words as it relates to this zoning ordinance.

Mr. Smith: Well, Mr. Chairman, I'm not sure why the specific wording was chosen, but my understanding from speaking with staff is that when the Corps permits someone to establish a

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mitigation bank and part of that being restoring wetlands that have been negatively impacted at some point in the past that they then, to receive the credit, must be preserved for at least some period of time. And I think that they must make some sort of commitment to the US Army Corps of Engineers and the State that they will preserve these restored wetlands for however long they must as part of their federal and state permitting. And that that may be where that language, as you indicated, came from.

Mr. Howard: So, how would we... how would we understand how that's applied to that language then?

Mr. Harvey: Well, Mr. Chairman, we'll again double back with the Corps of Engineers' representative to see how they would view it.

Mr. Howard: And something in writing would be wonderful.

Mr. Harvey: Okay, we'll try to shoot for that. Because in the definition, again, it refers to that it has to be subject to the state and federal agency approvals. So, they would be involved in that process and would evaluate to see whether it's, from their view, something that's qualifies and is positive. Also, I would state that wetlands systems tend to be rather dynamic, especially with... you look at... property ownership you may have one part of a wetland that can be preserved in its current state and it's a high value wetland, and you can have other parts that are impacted because that's where say the cattle farm operation was. So, you may have varying wetlands conditions on the same piece of property.

Mr. Howard: Sure. Understood.

Ms. Kirkman: And Mr. Chair?

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: I just... I feel compelled; I do want to comment people keep referring to the wetlands on Crow's Nest as being pristine and that's a term that would only imply in Stafford County relatively. There really are no pristine wetlands that I know of left in Stafford County. Unfortunately, that happens to be the case because Crow's Nest is downstream from a lot of sediment that's been dumped into the streams and, unfortunately, it's had its impact.

Mr. Fields: Mr. Howard, just also... your comment. I agree with your comment. You don't want to seem like you're rewarding people for doing the wrong thing. I think, and that's there I agree getting some clarification on... in the final analysis it is a little odd because we're enacting an ordinance that depends for its implementation on what is of course a very well educated and sophisticated, but still a judgment call based on the state and particularly the Corps of Engineers. They kind of have a real subjective ability to find this. I think my understanding though is that these are... I would hope, and my sense from seeing how it works is that when they're talking about wetlands that have been impaired, they've been impaired through long term agricultural practices or maybe long term standing development things where things occurred long before the Chesapeake Bay Act. And I hope... hopefully I agree with you that they would never allow the creation of a wetlands miti-bank from some of the just destroyed wetlands like five years ago build a subdivision.

Mr. Howard: Right.

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Mr. Fields: But, yeah, we need some clarification I think on that; I agree.

Mr. Howard: And another question... I don't know if it's for Mr. Smith or Mr. Harvey, probably both... but in the past we've taken an ordinance like this and added some wording. So, could we do that in terms of, and if we could, what... you know, can you come back to us with a recommendation? So, is there a length of time, you know, that we would put in there that qualifies for wetlands restoration. So, I think the cattle... we still have cattle farms in Stafford County, we have some horse farms, we have some sheep farms and some chicken farms. And that land gets used and it is dynamic because they change quarterly where the cattle go and where they don't go and so on and so forth, so things do move. I think that's a whole different scenario than someone who's just been abusive to land and they should never get rewarded for that. And I think that's what we're trying to protect against, right? So it would be interesting to hear your feedback on how could we protect the County, recognizing this... in the spirit this may be a positive thing to do but we're not sure because we're not sure how we can protect the County and protect these wetland areas.

Ms. Kirkman: I think the other sort of scenario we want to guard against is rewarding degradation of wetlands through logging, because actually... I don't know if people understand a (inaudible) to which logging operations are exempt from many of the requirements of the Ches Bay Act. And so I think that's another thing we don't want to create a situation where somebody can go in and destroy wetlands through a logging operation and then sell off...

Mr. Howard: Sell all the wood, right, and then get credit for the property. Okay, so we'll hold this over as unfinished business to the next meeting. Everybody in agreement with that? Yeah? A lot of heads nodding; okay. That brings us to...

Ms. Kirkman: (Inaudible – microphone not on) clear if they could look at the language about how to protect against some of those situations. Did that give you enough direction?

Mr. Harvey: Yes.

Ms. Kirkman: Okay.

Mr. Howard: That brings us to... the TDR is still in joint committee. I don't have an update of that.

PLANNING DIRECTOR'S REPORT

Discussed after item 10.

COUNTY ATTORNEY'S REPORT

Discussed after item 10.

COMMITTEE REPORTS

9. Transfer of Development Rights (TDRs) **(In Joint Committee)**

Mr. Hirons: We were scheduled to have a meeting tomorrow but unfortunately several of the members are either ill or had to leave town, so the meeting has been cancelled.

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Mr. Howard: Okay. And then item 10 and then we'll go back to the Planning Director's Report. Any update on that?

10. Telecommunications Plan Update (**Time Limits: May 31, 2011 - Joint Committee completes work and forwards to Planning Commission; August 1, 2011 - Planning Commission conducts public hearing and makes a recommendation**)

Mr. Fields: We're rockin' and rollin' on it.

Mr. Howard: Rockin' and rollin', okay.

Mr. Fields: We'll have something back to you by the month.

Mr. Howard: You actually do rock and roll? I thought you were a different type of music?

Mr. Fields: I've done it all.

Mr. Howard: Really? Okay, I didn't know that.

Ms. Kirkman: Is the committee aware that there now is yet another application in the pipeline for another tower? It goes to TRC, what, this week? So, please...

Mr. Fields: We're essentially just waiting for the very final draft (inaudible – microphone not on).

Ms. Kirkman: Okay.

Mr. Howard: Alright. Mr. Harvey, Planning Director's Report?

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you Mr. Chairman. Yesterday at the Board of Supervisors meeting, they held a public hearing regarding redistricting for the re-allocation of the election districts in the County. They did adopt a redistricting plan so that will be sent forward to the Department of Justice for potential final authorization. That will change some of the election district boundaries, some of the areas that you all represent.

Mr. Howard: Have any of us been redistricted out do you know? I haven't seen a map.

Mr. Harvey: I don't believe so. I believe you are all still intact.

Mr. Howard: Too bad... for me.

Mr. Harvey: Also, Mr. Chairman, I wanted to point out to the Commission, we have a Technical Review Committee meeting scheduled for May 11th. We have three items on that agenda and I have the information here if a Commissioner wants to volunteer for the meeting. The items on the Technical Review Committee agenda are the Fairfield Inn and Suites Hotel up on Route 1, a new building that would be built in our Courthouse complex called the Courthouse Annex that would serve to house the Commonwealth Attorney's office, which was where the former Rescue Squad building

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was. And then also a road infrastructure plan for the commercial property at the intersection of Shelton Shop Road and Garrisonville Road.

Mr. Howard: What is planned there?

Mr. Harvey: It's an infrastructure plan. It's the same property where the 7-Eleven has been recently authorized.

Mr. Howard: Well, one of those would be mine so... the other one is... I'll go. I just put it down on the calendar. What time does it start?

Mr. Harvey: Typically they start at 9.

Mr. Howard: Okay.

Mr. Harvey: And that concludes my report.

COUNTY ATTORNEY'S REPORT

Mr. Howard: Alright. Mr. Smith?

Mr. Smith: No report Mr. Chairman.

Mr. Howard: No report. We did the Committee Reports and the Chairman's Report. Any other business from anyone? Anybody move to approve the minutes of March 16th?

CHAIRMAN'S REPORT

OTHER BUSINESS

APPROVAL OF MINUTES

March 16, 2011

Mr. Rhodes: So moved.

Mr. Fields: Second.

Mr. Howard: Any discussion? All those in favor of approving the March 16th minutes signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

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Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 6-0. The meeting is adjourned. Thank you.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 9:41 p.m.